

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

UNITED STATES OF AMERICA           ) CAUSE NO. 3:04-CR-240-P  
  (  
vs.                                        )  
  ( OCTOBER 2, 2008  
  ) DALLAS, TEXAS  
HOLY LAND FOUNDATION, ET AL   ( 9:00 A.M.

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VOLUME 12 OF 37

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STATEMENT OF FACTS

BEFORE THE HONORABLE JORGE A. SOLIS  
UNITED STATES DISTRICT JUDGE  
and a jury

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1 THE COURT: Good morning.

2 Mr. Jonas?

3 MR. JONAS: Yes, sir. Your Honor, I am about to  
4 start with Agent Burns the issues involving Abdullah Azzam so  
5 I need a ruling whether we can get into.

6 THE COURT: I am overruling the objections and you  
7 can get into that.

8 Anything else before we get started?

9 MS. HOLLANDER: Ms. Duncan is not here today.

10 THE COURT: Sure. That is fine.

11 Go ahead and bring in the jury.

12 (Whereupon, the jury entered the courtroom.)

13 THE COURT: Ladies and gentlemen of the jury, good  
14 morning. We are ready to proceed.

15 Mr. Jonas?

16 MR. JONAS: Thank you, sir.

17 Q. (BY MR. JONAS) Good morning, Agent Burns.

18 A. Good morning.

19 Q. How do you feel this morning?

20 A. Better, thanks.

21 Q. If you recall, when we broke on Tuesday we were looking  
22 at these IAP magazines called Illa Falistine Do you remember  
23 that?

24 A. I do.

25 MR. JONAS: And just to re refresh our recollection,

1 if we can pull up the last one that we looked at, Illa  
2 Falistine 5, page 5.

3 Q. (BY MR. JONAS) Do you see that, Agent Burns?

4 A. I do.

5 Q. What does this page depict?

6 A. This is an Illa Falistine, which is a publication by the  
7 Islamic Association for Palestine, the IAP and in it this page  
8 includes a statement by the Islamic Resistance Movement,  
9 Hamas.

10 MS. HOLLANDER: Can we have a date, please.

11 Q. (BY MR. JONAS) Do you know the date of this issue?

12 A. The date of the statement here is January 20th, 1989. I  
13 believe the actual magazine article was dated February 1989.

14 Q. And below that is?

15 A. Just below the statement by the Islamic Resistance  
16 Movement, Hamas is an ad for the Occupied Land Fund that  
17 merely says "Send your tax deductible donations."

18 Q. Okay. Agent Burns, were there any Illa Falistine  
19 magazines that had articles in it referencing the Occupied  
20 Land Fund or the Holy Land Foundation?

21 A. In addition to the ones we have already discussed?

22 Q. Correct.

23 A. Yes, there were others.

24 Q. Okay. Do you have before you what has been marked as  
25 Illa Falistine No. 2?

1 A. I do.

2 Q. Is that one of these magazines that we have been  
3 referring to, the IAP publications?

4 A. It is.

5 MR. JONAS: Your Honor, at this time I offer into  
6 evidence Government's Exhibit Illa Falistine No. 2?

7 THE COURT: That is admitted.

8 MR. JONAS: Thank you, sir.

9 Q. (BY MR. JONAS) Agent Burns, if we can first put on page  
10 1 so we can see the cover, is that the cover of the magazine?

11 A. It is.

12 Q. Do you know the date of this particular issue?

13 MR. JONAS: And if we can turn to page 7?

14 THE WITNESS: Yes. According to page seven this was  
15 the November-December 1989 issue.

16 Q. (BY MR. JONAS) And to be clear, what language is the  
17 original magazine in?

18 A. It is in Arabic, as were the other Illa Falistines, and  
19 we had portions of them translated.

20 Q. Do you see under in the title page it says picture of  
21 Abdullah Azzam?

22 A. Yes. That is the individual that is depicted on the  
23 front cover of the magazine, if you want to go back to page 1.

24 Q. Have we seen him referenced in any of the videos we have  
25 seen so far, in the songs?



1 A. Yes, we have.

2 Q. If you recall, I asked you about the name during one of  
3 the songs being played by the Al Sachra Band?

4 A. Yes. In the video we watched late Tuesday, I guess it  
5 was, where they were singing about Sheik Ahmad Yassin, they  
6 were singing about Abdullah Azzam.

7 Q. Okay. In asking about this issue, I asked you if there  
8 were any articles that referenced the Holy Land Foundation or  
9 the Occupied Land Fund. Is there such an article in this  
10 issue?

11 A. There is.

12 MR. JONAS: If we can turn to page 8, please.

13 THE WITNESS: Mr. Jonas, on my copy mine ends at 7,  
14 so if you can show me the original.

15 Q. (BY MR. JONAS) Sure.

16 A. Thank you.

17 Q. Agent Burns, can you do a little reading today, or would  
18 rather me do it?

19 A. I can do it. Again, this is the translation of page 2 of  
20 the original in the magazine. And it says on top the Islamic  
21 Association for Palestine, which is the IAP and then it says,  
22 "A statement issued by the media office of the Islamic  
23 Association for Palestine in North America, the third year of  
24 the Intifada."

25 Q. Let me stop you and ask you a few questions on that.

1     Could you remind us again what the Islamic Association for  
2     Palestine is?

3     A.     That organization was the media organization which was a  
4     part of the Palestine Committee along with the Holy Land  
5     Foundation.

6     Q.     And what document has that organization published in  
7     English and Arabic in the United States that we have referred  
8     to?

9     A.     I am sorry.  Can you repeat that?

10    Q.     What document has that organization published both in  
11    English and Arabic?

12    A.     The Hamas charter.

13    Q.     Were any of the Defendants at this time associated with  
14    the IAP?

15    A.     Yes.

16    Q.     Who?

17    A.     Well, this was in 1989, as we said, and according to the  
18    Defendant Shukri Abu Baker's deposition he was on the advisory  
19    board during this time period.  In addition, we saw Mohammad  
20    El-Mezain identified in a 1988 video as being a part of the  
21    IAP.

22    Q.     Did we also see any IAP documentation indicating another  
23    Defendant was associated with it?

24    A.     We did.

25    Q.     What was that?

1 A. The articles of incorporation for the IAP from 1986  
2 showed Ghassan Elashi as an officer and incorporator.

3 Q. Okay. Where it says "the third year of the Intifada," is  
4 that consistent with the date of this issue?

5 A. It is.

6 Q. And if you could continue reading, please.

7 A. Okay. It says, "The Intifada of our people knocks on the  
8 door of its third year with more determination, persistence,  
9 and heroism.

10 "The Intifada of our people in blessed Palestine came  
11 with the dawn of the 8th of December, 1987 as an explosion of  
12 a volcano of anger which filled the Palestinian heart for  
13 several decades; an anger resulting from the conspiracy of  
14 colonialism, the establishment of the Zionist state on the  
15 pure land of Palestine" --

16 Q. I am sorry. Let me pause for a moment and ask you a  
17 question. What is the Zionist state?

18 A. That would be -- That is the terminology that they use to  
19 describe the state of Israel.

20 Q. Continue.

21 A. "...the practices of the occupation gangs against our  
22 people and the shameful Arab neglect which reached its peak  
23 and turned into a conspiracy of treason against the  
24 Palestinian cause.

25 "Yes, the Intifada of our people in blessed Palestine

1     came as an eruption of overwhelming Palestinian anger which,  
2     God willing, will remove the abomination of the Jews, the sons  
3     of Israel from above the pure land of the Night Journey, the  
4     land of Palestine.

5             "This is the Intifada of our people. It is the mosques'  
6     revolution knocking the door of its third year while it grew  
7     stronger. Its fire burned brighter. Its banners rose higher.  
8     The resources of our struggling people have exploded and our  
9     masses in Palestine have gathered around the leadership of the  
10    Islamic Resistance Movement, Hamas, giving it their  
11    confidence, moves along with it and by it in the most  
12    wonderful jihad march which brings anxiety and worry to the  
13    enemy and shakes the ground from under its feet.

14            "As it knocks on the door of the third year of its  
15    blessed Intifada under the leadership of the Islamic  
16    Resistance Movement, Hamas, our people in Palestine assure the  
17    Palestinian masses abroad in the foreign countries and all  
18    Arabs and Muslims that it rushes towards its jihad revolution  
19    on a firm ground of a sound comprehension of the nature of the  
20    fight with Zionism and its allies which can [sic] explained  
21    through these facts:

22            "One: The cause of Palestine is one eternal field battle  
23    between the right that the Muslims represent and the wrong  
24    that the Jews and their allies represent.

25            "Two: The only way to liberate Palestine--all of

1 Palestine--is the path of jihad, and any other path other than  
2 the path of jihad will only serve to affirm the detested  
3 Zionist occupation.

4 "Three: The land of Palestine is an Islamic endowment,  
5 and no government or organization, body, or a human being,  
6 whoever he is, may give up one speck of its soil or recognize  
7 for the Zionist enemy the legality of seizing one speck of  
8 it."

9 Q. Agent Burns, let me interrupt you. In the Hamas charter  
10 does it talk about how much land Hamas wants to take over with  
11 regard to the West Bank, Gaza, and Israel?

12 A. Yes.

13 Q. What does it say?

14 A. All of it.

15 Q. Continue, please.

16 A. "Four: The cause of Palestine is a trust in the neck of  
17 every Arab and Muslim, and jihad for the sake of God in order  
18 to liberate it is a duty for every male and female Muslim.  
19 The struggling Palestinian people is the head of the spear in  
20 the march of jihad to liberate Palestine--all of Palestine,  
21 from the sea to the river.

22 "Five: The Islamic Resistance Movement, Hamas, the  
23 conscience of our struggling people. It is the ember of hope  
24 which lit up from under the ashes of neglect and conspiracy  
25 practiced by the negligent and the conspirators against the

1     Palestinian cause.

2             "O, our Palestinian people everywhere, O, our Arab people  
3 everywhere, O, the people of our Muslim nation everywhere.

4             "Everyday, your people in Palestine offer their blood,  
5 their children, thousands of prisoners, thousands of houses  
6 that the enemy's bulldozers demolish, and thousands of olive  
7 trees that the Jews uproot. They offer all that as fuel for  
8 their Intifada so as to continue and escalate. They have  
9 pledged to God to continue with this giving until God allows  
10 his victory over the Jews and their allies, and over the  
11 negligent and the conspirators from our own kind, the Arabs.

12            "You people in Palestine look up to you with eyes of hope  
13 and expectation, and demand their right from you and their  
14 right is great as they are the ones who restored for their  
15 Arab and Islamic nation its dignity which was smeared with mud  
16 by the negligence and the conspiracies of conspirators who  
17 appointed themselves guardians over the Palestinian cause and  
18 the Palestinian people through many decades. They are the  
19 ones who raised your head after the Zionist occupation lowered  
20 it down for many decades. It is the right of those people in  
21 Palestine that we be faithful to the blood of their martyrs  
22 and be faithful to their blessed Intifada.

23            "The Islamic Association for Palestine in North America  
24 calls upon all of you to do the following in support of the  
25 Intifada of the people of the homeland, and to make the

1       blessed cause of Palestine victorious:

2               "First: We call upon all of you to perform jihad with  
3       your money for the sake of God by donating the maximum amount  
4       you can to support the Intifada of your people in Palestine.  
5       You may send your donations in the name of Occupied Land Fund,  
6       P.O. Box 928, L.A., California, 90232-9028.

7               "Two: We are planning a fast on Thursdays December 7th,  
8       1989 and December 4th, 1989, and to make a lot of  
9       supplications on that day for our people in Palestine so that  
10      God can strengthen their hearts, shake the ground from under  
11      the feet of their enemy, have mercy on their martyrs, head  
12      their wounded and free their prisoners, and stand up to the  
13      craftiness of their enemies, the manifest among them and the  
14      hidden ones.

15              "Three: We call upon our teachers and sheikhs, the imams  
16      of the mosque, to dedicate the sermon of the Friday  
17      corresponding to the December 8 or December 15, 1989 to speak  
18      about the Intifada of our people, what suffering and  
19      persecution they suffer on the hands of soldiers of the  
20      Zionist occupation, and to urge Muslims to perform their duty  
21      by donating their money to support their people in Palestine.

22              "Finally, a greeting of appreciation and glorification to  
23      our struggling people in the land of Palestine. God is great  
24      and victory to Islam.

25              "Islamic Association for Palestine in North America."

1 Q. Thank you, Agent Burns.

2 If you recall, on the front page of this issue there is a  
3 picture of Abdullah Azzam.

4 A. That is correct.

5 Q. Was there also an article about him in this issue?

6 A. Yes.

7 Q. And does that article also reference the Occupied Land  
8 Fund or Holy Land Foundation?

9 A. It does.

10 Q. Okay.

11 MR. JONAS: Your Honor, may I have a very, very  
12 quick sidebar?

13 THE COURT: Sure.

14 (The following was had outside the hearing of the  
15 jury.)

16 MR. JONAS: I just want to be clear before we get  
17 into this article, we did not redact anything because that was  
18 our understanding at the end of the day on Tuesday that the  
19 Defense did not want the words Afghanistan redacted, so this  
20 issue is not redacted, and I want to make sure there is no  
21 misunderstanding to that.

22 MR. DRATEL: Just so long as we are not going to get  
23 into anything beyond the affiliations or anything like that.

24 MR. JONAS: We are not.

25 (The following was had in the presence and hearing



1                   of the jury.)

2       Q.     (BY MR. JONAS) Agent Burns, if we can look at that  
3       article, please.

4                   MR. JONAS: If we can put page 9 on the screen.

5       Q.     (BY MR. JONAS) Is that correct, page 9?

6       A.     That is where we were.

7       Q.     Page 10, then.

8       A.     Page 11.

9       Q.     You have my copy so I can't say the page.

10      A.     Page 11 is where the article begins.

11      Q.     If we can start with the top, again can you do some  
12      reading?

13      A.     I can.

14      Q.     All right.

15      A.     It starts with the Islamic Association for Palestine. Do  
16      you want me to read the verse?

17      Q.     No, you don't need to do that.

18      A.     "The Sheik of Mujahideen Dr. Abdullah Azzam is with God,  
19      His guard and contentment.

20               "The Islamic Association for Palestine in North America  
21      brings the Muslim nation the good news of the martyrdom of the  
22      sheik of Mujahideen brother Dr. Abdullah Azzam and his  
23      children Mohamed and Ibrahim.

24               "As we celebrate the passing of our beloved sheik to the  
25      guardianship of Good and His contentment, we remember his

1 extreme love for Palestine whose land knew him as a Mujahed  
2 leader who carried his soul on his palm for jihad for the sake  
3 of God in order to cleanse it from the abomination of God's  
4 enemies the children for Zion and their manifest and hidden  
5 allies, as much as the struggling land of Afghanistan knew him  
6 a Mujahed leader in order to cleanse it from the abomination  
7 of God's enemies the communists and their allies.

8 "If the enemies of Islam were tricked by their demons  
9 into believing that the assassination of our beloved sheik  
10 Abdullah Azzam will stop the high tide of the Islamic  
11 renaissance or put a stop to the march of Islamic jihad, we  
12 are certain that these enemies will be disappointed and that  
13 their arrow will miss its target when they find out that the  
14 blood of our beloved martyr and sheik, the blood of our  
15 righteous martyrs on the land of Palestine, the land of  
16 Afghanistan, and every land on which the banners of jihad  
17 flew, will not go in vain but that this pure blood will water  
18 the blessed tree of jihad so that it bears thousands upon  
19 thousands of heroes and martyrs who will follow the footsteps  
20 of our beloved sheik so that the march of Islamic jihad  
21 continues, sweeping in its way the enemies of God and the  
22 enemies of Islam from all the Islamic land.

23 "Here is the march of Islamic jihad on the pure land of  
24 Palestine, loved by our beloved sheik Abdullah Azzam advances  
25 and its fire rises, its banner sores, and volcanoes of Islamic

1     anger explode through them through the leadership of the  
2     Islamic Resistance Movement, Hamas, which grew out of the same  
3     blessed tree which produced our martyr sheik Dr. Abdullah  
4     Azzam the blessed tree of the struggling Islamic Movement.

5             "Here we see the march of the Islamic jihad in  
6     Afghanistan, God willing, about to tear down the fortresses of  
7     the assaulting tyrants, the communists, the agents of Moscow  
8     who set heavily on the struggling Afghani land.

9             "The Islamic Association for Palestine in America appeals  
10    to the masses of our Muslim nation in the corners of the earth  
11    to be faithful to the blood of our hero martyr and his two  
12    hero martyr sons, and to the blood of thousands of righteous  
13    martyrs in the land of Palestine, Afghanistan, Philippines,  
14    and every Muslim land, and to translate this faithfulness into  
15    non-tiring work to support the march of Islamic jihad in  
16    Palestine and Afghanistan and everywhere, either by actual  
17    participation in jihad, if that is possible, or by financial  
18    support so that the Islamic jihad march may continue until it  
19    bears its fruits as a confirmed victory for Islamic and  
20    Muslims.

21            "On this occasion we remind our brothers and sisters, the  
22    Muslims of North America, that they can express their  
23    faithfulness to the blood of our hero martyr who loved  
24    Palestine, the blood of his two hero sons, the blood of our  
25    righteous martyrs in blessed Palestine through the support to

1 the Occupied Land Fund so that you can support your people in  
2 Palestine. Its address is Occupied Land Fund, P.O. Box 928,  
3 Los Angeles, California."

4 Q. And this was the address of the Holy Land Foundation at  
5 that time?

6 A. It is.

7 Q. Agent Burns, besides the video that we referenced a few  
8 moments ago where there is a song that Abdullah Azzam's name  
9 comes up in, have we seen Abdullah Azzam's name in any of the  
10 exhibits you have already testified about?

11 A. Yes.

12 Q. Do you have Ashqar Search No. 1?

13 A. I do.

14 MR. JONAS: If we can put Ashqar Search No. 1, page  
15 5 on the screen.

16 Q. (BY MR. JONAS) And while we are doing that and you are  
17 looking up, can you remind us what Ashqar Search No. 1 is?

18 A. Yes. This was a list of Palestinian Committee members  
19 taken from Abdel Haleem Ashqar's home, or a picture was taken  
20 of it, in December of 1993.

21 There were two pages to the original document. The first  
22 page were the Palestinian Committee members in North America.  
23 The second page the title is "important phone and fax numbers  
24 for the Palestine section outside of America."

25 Q. And why did we look at this particular page earlier?

1 A. We looked at this particular page earlier because the  
2 individual, No. 1, Khari al-Agha, was the individual to whom  
3 the HLF sent over \$250,000 in 1988 or 1989. We used it to  
4 show that he was the first on this list.

5 MR. JONAS: And if we can enlarge the bottom half of  
6 the page, please.

7 Q. (BY MR. JONAS) Do you see Abdullah Azzam's name on the  
8 list?

9 A. I do, under No. 33.

10 Q. Besides the Illa Falistine articles and the Ashqar phone  
11 list, have we seen Abdullah Azzam, or have you seen in the  
12 material you have reviewed Abdullah Azzam anywhere else?

13 A. Yes.

14 Q. Where would that be?

15 A. Among other things, in some videotapes.

16 Q. Were some of those videotapes ones that were buried in  
17 the backyard of Fawaz Mushtaha?

18 A. They were.

19 Q. And remind us again, when were they recovered from his  
20 backyard?

21 A. In 2005 or 2006. It was recently.

22 MR. JONAS: Your Honor, at this time I would offer  
23 into evidence Government's Exhibit Mushtaha Search No. 9.

24 THE COURT: And that is admitted. Nothing beyond  
25 what you stated previously?

1 MS. HOLLANDER: Yes.

2 THE COURT: That is admitted.

3 Q. (BY MR. JONAS) On these videotapes that you have seen  
4 Abdullah Azzam appear on, are there other individuals on these  
5 tapes as well, other scenes?

6 A. Yes.

7 Q. Do some of the scenes involve any of the Defendants?

8 A. They do.

9 Q. So when we play this tape, are we going to see some of  
10 those clips as well?

11 A. Yes.

12 MR. JONAS: If we can play Mushtaha Search No. 9.

13 (Whereupon, Mushtaha Search No. 9 was played, while  
14 questions were propounded.)

15 Q. (BY MR. JONAS) Who do we see on the screen here?

16 A. The Defendant Mufid Abdulqader is the individual who  
17 appears on the screen.

18 Q. There is a double image of him here. Did the FBI create  
19 that double image?

20 A. No. That was apparently the fancy work of whoever  
21 produced the tape.

22 Q. Have you seen that on a number of tapes, this fancy  
23 editing?

24 A. Yes, they do. They have edited the tapes with different  
25 scenes like we have looked at before.

1 Q. Also the split screen and --

2 A. Yes.

3 Q. Okay. Please continue.

4 MS. CADEDDU: Can we get a time frame for this  
5 video?

6 Q. (BY MR. JONAS) Agent Burns, do you know what year this  
7 video was created?

8 A. It would have been 1988.

9 Q. Agent Burns, what is that?

10 A. That is an ad for you to send your tax deductible  
11 donations to the Occupied Land Fund at the same address that  
12 we saw in the Illa Falistine articles.

13 Q. Again, what is the subsequent name to the Occupied Land  
14 Fund?

15 A. HLF.

16 Q. Agent Burns, besides this tape, were there other tapes  
17 with Abdullah Azzam on it?

18 A. Yes. We see him speaking on some other tapes as well.

19 MR. JONAS: Your, Honor at this time I would offer  
20 into evidence Mushtaha Search No. 2.

21 THE COURT: I show that the tapes we went over  
22 Tuesday afternoon is Mushtaha Search No. 9, 7, 2, and 1, and  
23 then Elbarasse Search No. 32. Are those the ones you are  
24 getting ready to play?

25 MR. JONAS: I am not going to play all of them now

1 with Agent Burns.

2 THE COURT: Which ones are you getting ready to  
3 play?

4 MR. JONAS: I just did No. 9, and I am getting ready  
5 to do No. 2.

6 Your Honor, since we are discussing it, I would offer  
7 into evidence those other tapes. Mushtaha Search No. 1 is  
8 already in evidence. I played part of that. So at this time  
9 I offer in Mushtaha Search No. 2, Mushtaha Search No. 7,  
10 Elbarasse Search No. 32.

11 THE COURT: And those are tapes we discussed Tuesday  
12 afternoon. Correct?

13 MR. JONAS: Yes, sir.

14 THE COURT: Any objection beyond what we discussed  
15 that afternoon?

16 MS. HOLLANDER: No, sir.

17 THE COURT: Those have been overruled, and those  
18 exhibits are admitted.

19 MR. JONAS: If we can Play Mushtaha Search No. 2.

20 (Whereupon, Mushtaha Search No. 2 was played, while  
21 questions were propounded.)

22 Q. (BY MR. JONAS) Agent Burns, who is Ahmed Yassin?

23 A. He was the Hamas founder and former spiritual leader  
24 there at the top of your chart.

25 Q. Okay. For the record, I held up Demonstrative No. 17.



1 MS. HOLLANDER: What are the dates of this tape?

2 Q. (BY MR. JONAS) Agent Burns, do you know the date of this  
3 tape?

4 A. Late 1987 or early '88.

5 Q. Agent Burns, do you know what an RPG rocket is?

6 A. Yes. That is short for rocket propelled grenade.

7 Q. Agent Burns, did you see where Abdullah Azzam near the  
8 end of the clip talked about taking a week off from  
9 refreshments, a week off from fruit, a week off from meat?

10 A. I did.

11 Q. Have you seen any videotapes where the Defendants refer  
12 back to Abdullah Azzam making that speech?

13 A. Yes, I have.

14 Q. Is that part of one of the tapes we have already viewed?

15 A. Yes. A part of the tape that we reviewed on Tuesday  
16 morning where the children were on the stage dancing to the  
17 Hamas songs with Shukri Abu Baker down below.

18 Q. The band on the stage?

19 A. Right; leading the children singing.

20 Q. Mahmoud Zahar in the audience?

21 A. That is correct.

22 Q. Is this a clip we didn't play yet on Tuesday?

23 A. We did not play this clip on Tuesday.

24 MR. JONAS: Can we play Mushtaha Search No. 1, clip  
25 B, please?

1                   (Whereupon, Mushtaha Search No. 1, Clip B, was  
2                   played while questions were propounded.)

3       Q.     (BY MR. JONAS) Agent Burns, who is doing the speaking  
4       here?

5       A.     That is the Defendant Mohammad El-Mezain at the podium  
6       there.

7       Q.     Okay.

8                   MR. DRATEL: Can we get a time frame, please?

9       Q.     Agent Burns, approximately what year is this conference?

10      A.     Approximately 1990.

11      Q.     Again, when was this tape found?

12      A.     This was a Mushtaha tape as well, so it was 2005 or 2006.

13      Q.     A couple of moments ago the Defendant Mohammad El-Mezain  
14      mentioned a coin box. Did you see that?

15      A.     I did.

16      Q.     Did Abdullah Azzam also mention a coin box in his speech?

17      A.     He said that every family should set up a Palestinian  
18      jihad box in their family to put money into.

19      Q.     Agent Burns, the Defendant Mohammad El-Mezain just  
20      referred to being on the board with Abdullah Azzam of the  
21      Muslim Arab Youth Association. Does that have an acronym that  
22      we have seen?

23      A.     It does. That is MAYA, M-A-Y-A, that we saw on the  
24      Muslim Brotherhood documents during the first days of my  
25      testimony. And also we saw it on the chart with the Defendant

1 Shukri Abu Baker listed out beside MAYA as a member of MAYA.

2 Q. Do you recognize who is walking across the screen?

3 A. Can we rewind it just a bit?

4 Q. That is okay. Agent Burns, do you recognize who is now  
5 on the screen?

6 A. Yes. The individual walking on the screen in the bottom  
7 with the tie with his hand to his ear is the Defendant Ghassan  
8 Elashi.

9 Q. Agent Burns, when we started talking about Abdullah  
10 Azzam, I asked you if we saw a video with the band singing his  
11 praises. Was that more than just that one video where the  
12 band sang his praises?

13 A. Yes, there were.

14 Q. Should we watch another one?

15 A. Sure.

16 MR. JONAS: Your Honor, at this time I would offer  
17 into evidence HLF Search No. 127.

18 THE COURT: Counsel, anything beyond what we  
19 previously discussed?

20 MS. HOLLANDER: No.

21 THE COURT: Those are admitted.

22 MS. CADEDDU: Can we get a time frame, please?

23 Q. (BY MR. JONAS) Agent Burns, do you know what year this  
24 video was created, about?

25 A. I believe we will see something on the tape indicating

1 1992.

2 (Whereupon, HLF Search No. 127 was played, while  
3 questions were propounded.)

4 Q. (BY MR. JONAS) Agent Burns, who do we see on the stage,  
5 if you recognize anybody?

6 A. In the middle is the Defendant Mufid Abdulqader.

7 Q. And remind us again, where was this tape taken from?

8 A. This was taken from the HLF offices.

9 Q. When?

10 A. In 2001, December 2001.

11 Q. Thank you.

12 Is that where we see Abdullah Azzam being praised?

13 A. Yes.

14 Q. And Ahmed Yassin is who again?

15 A. The Hamas founder, former spiritual leader.

16 Q. Agent Burns, do you see there is sort of a double image  
17 on the screen now?

18 A. I do.

19 Q. Did the FBI do that?

20 A. No.

21 Q. Is that the way it was found?

22 A. Yes.

23 Q. Agent Burns, moving away from Abdullah Azzam, you  
24 testified just not that long ago that Shukri Baker had a  
25 relationship with the IAP, Ghassan Elashi, Mohammad El-Mezain

1 all had relationships to the IAP. Other than that, have the  
2 two, and other than everything we have seen so far, have you  
3 seen anything else where the two had been linked up in one  
4 item?

5 A. Yes.

6 Q. Do you have before you what has been marked as HLF Search  
7 No. 14?

8 A. I do.

9 Q. What is that item?

10 A. This is a book taken from the office of the Defendant  
11 Abdulrahman Odeh.

12 Q. Where would that office have been?

13 A. In New Jersey.

14 Q. Remind us, whose office is it. I don't mean the  
15 Defendant but --

16 A. The HLF New Jersey office.

17 MR. JONAS: Your Honor, at this time I would offer  
18 into evidence HLF Search No. 14.

19 MR. WESTFALL: No objection, Your Honor.

20 THE COURT: Admitted.

21 MR. JONAS: If we can get the first page of the book  
22 on the screen so we can see the cover.

23 Q. (BY MR. JONAS) Agent Burns, I am holding it up. Do you  
24 see this?

25 A. I do.

1 Q. Is this the original of HLF No. 14?

2 A. It is.

3 Q. What language is it in?

4 A. It is in Arabic.

5 Q. If we can turn to page 22.

6 A. Okay.

7 Q. Is that the first page of the translation?

8 A. It is. This is the translation of the cover.

9 Q. Okay. And what is the title of the book?

10 A. "The Jihadist School, Izz Eddin Al Qassam."

11 Q. What is Izz Eddin Al Qassam?

12 A. Well, in this context he is a Palestinian martyr who died  
13 I think at the hands of the British in the mid 1900s. But it  
14 is also -- He was the martyr for whom Hamas named its military  
15 wing, which are the Izz el-Din al Qassam Brigades.

16 Q. Has the whole pamphlet been translated by the FBI, or  
17 just a portion?

18 A. We are exhibiting a portion of the translation.

19 Q. Okay. And the portion that is translated, what is that  
20 referencing? There are several pages so I am not going to  
21 have you read it, but just tell us what that is about.

22 A. It is about Izz el-Din al-Qassam, and his experience in  
23 jihad and martyrdom.

24 MR. DRATEL: Can we get a time frame for the book?

25 Q. (BY MR. JONAS) Agent Burns, were you able to date when

1     this book was --

2     A.     It was from either late 1987 or early 1988, because in  
3     the back, which we are about to get to, the Palestinian Relief  
4     Fund was the name used by the HLF, and they stopped using that  
5     name around March or so of '88.

6     Q.     What year was this book found?

7     A.     This book was found in the Defendant Abdulrahman Odeh's  
8     office in December of 2001.

9     Q.     Okay.  If we can turn to page 31, what is it about this  
10    book, and in particular this page, that links up the IAP and  
11    the HLF?

12    A.     In the back of the book that was published by the Islamic  
13    Association for Palestine, there is a page, and we can look at  
14    the original Arabic as well if you want, but it says  
15    "addresses that are important to you."  And again, this book  
16    was published by the IAP.  And under addresses that are  
17    important to you, it lists several addresses for the IAP.  And  
18    it says under No. 6, "Financial support for the Association,  
19    the Islamic Association for Palestine," and it lists a P.O.  
20    Box in Culver City, California, "Or the Palestine Relief Fund,  
21    P.O. Box 38 Plainfield, Indiana."

22           MR. JONAS:  Just so we are clear on what that P.O.  
23    Box in Plainfield, Indiana is, if we can go to Baker  
24    Deposition page 6 for the screen purposes and page 111 of the  
25    deposition page.

1 Q. (BY MR. JONAS) Agent Burns, in the sworn statement of  
2 the Defendant Shukri Abu Baker, what does he say about  
3 Plainfield, Indiana, and this particular address found in this  
4 jihadist school book?

5 A. He is questioned about it. And although the print is  
6 terribly hard to read on this screen, I will try.

7 It says, question: "Are you able to tell that Occupied  
8 Land Fund, is that an HLF address at some point, Plainfield,  
9 Indiana? I think you had testified earlier you lived there  
10 for some time."

11 Answer: "P.O. Box 38. What is the date of this? 1988?"

12 Question: "Other than the date you read to us earlier, I  
13 don't know. There's no date in English."

14 Answer: "Yeah, that would have been the Occupied Land  
15 Fund address in Plainfield, Indiana."

16 Q. Okay. Thank you.

17 Agent Burns, I want to talk for a moment about the  
18 Defendant Mufid Abdulqader with you. Did you interview him?

19 A. I did.

20 Q. And where was that interview?

21 A. In the office of his attorney.

22 Q. Was his attorney present at the time?

23 A. He was.

24 Q. When was the interview?

25 A. The interview was in I believe 2002, 2003.



1 Q. During the course of the interview did he state when he  
2 started working for the HLF as a volunteer, or in any manner?

3 A. He did.

4 Q. What did he state about that?

5 A. When questioned about his affiliation with the Holy Land  
6 Foundation, he told us that he had not worked with them until  
7 after he moved to Dallas, which was in approximately 1995.  
8 When questioned further, he stated that in fact he didn't even  
9 know anyone from the Holy Land Foundation prior to that time,  
10 with the exception of his cousin Akram Mishal.

11 Q. Do you recall Mushtaha Search No. 1? That was a tape we  
12 played on Tuesday, several segments of, we just played another  
13 segment today with the Defendant Mohammad El-Mezain on the  
14 stage talking about Abdullah Azzam.

15 A. That is correct.

16 Q. The portions we played on Tuesday, and I am not going to  
17 may any of them again, but was there any portion where any of  
18 the Defendants identify Defendant Mufid Abdulqader on the  
19 stage?

20 A. Yes.

21 Q. And just remind us what that was.

22 A. Okay. That was a tape that we were able to date to 1990.  
23 And you will remember from Tuesday it was the tape where the  
24 Hamas songs were being sung and the children were on stage and  
25 Shukri Abu Baker was below the stage. He took the stage and

1 introduced the band members by name and asked for the audience  
2 to applaud them, and one of those was the Defendant Mufid  
3 Abdulqader.

4 Q. What year was that again?

5 A. That was in 1990, five years before the Defendant told us  
6 that he had any affiliation with any of the individuals from  
7 the Holy Land Foundation.

8 Q. Besides playing in the band, do you recall we saw a tape  
9 during some point in your testimony where the Defendant Mufid  
10 Abdulqader was on the stage and was in a skit where he I  
11 believe shot someone pretending to be a Jewish individual?

12 A. Yes. He was holding a gun and pretended to shoot the  
13 Jewish individual.

14 Q. Did you see other skits like that in other videos?

15 A. I did.

16 MR. JONAS: If we can play Elbarasse Search No. 32,  
17 clip H.

18 (Whereupon, Elbarasse Search No. 32, Clip H, was  
19 played, while questions were propounded.)

20 MS. MORENO: Is that in evidence?

21 MR. JONAS: Yes, it is. I moved it in earlier when  
22 we were talking about the Abdullah Azzam videos.

23 Q. (BY MR. JONAS) In fact, on this video, Agent Burns, is  
24 there one of the clips with Abdullah Azzam on it?

25 A. Yes.

1 Q. Who is it that just came on the screen?

2 A. This is the Defendant Mufid Abdulqader.

3 Q. Are you able to date the video?

4 A. What was the video exhibit number?

5 Q. This is Elbarasse Search No. 32? Do you have a cheat  
6 sheet you are looking at?

7 A. I do, because the dates are usually ascertained from  
8 content so we had to study the content. Based upon the  
9 content of this one, I think we were dating it to 1988.

10 Q. And when was it found and where was it found?

11 A. This was found at Ismail Elbarasse's home, and that  
12 search was in late 2004.

13 Q. Agent Burns, this individual who is identifying himself  
14 as I guess a Jew and a Zionist?

15 A. Yes.

16 Q. Anywhere from what he says, from what you reviewed of  
17 this tape, does he identify himself as an Israel soldier?

18 A. No, he does not. He is dressed in a suit. He is not  
19 dressed in military fatigues.

20 MR. JONAS: Play clip F from Elbarasse Search No.  
21 32.

22 (Whereupon, Elbarasse Search No. 32, Clip F, was  
23 played, while questions were propounded.)

24 Q. (BY MR. JONAS) Agent Burns, do you recognize that  
25 individual?

1 A. I do.

2 Q. Who is that?

3 A. The Hamas founder Sheikh Ahmed Yassin.

4 Q. The individual --

5 A. On the top of the chart, yes.

6 Q. Agent Burns, do you see where he just said that a  
7 peaceful solution is not acceptable?

8 A. I do.

9 Q. Where else have we seen that?

10 A. In the Hamas charter.

11 Q. Agent Burns, was there anything about this tape that was  
12 used to encourage people to donate money to the HLF?

13 A. Yes.

14 MR. JONAS: Can we play Segment I?

15 Q. (BY MR. JONAS) And before we do that, Agent Burns, this  
16 tape was found, you said, at the home of Ismail Elbarasse in  
17 2005?

18 A. 2004, I believe.

19 Q. Was this tape altered in any way by the FBI?

20 A. No. We just selected portions to play, but its content  
21 was as it was when we seized it.

22 MR. JONAS: If we can play segment I, please.

23 (Whereupon, Elbarasse Search No. 32, Clip I, was  
24 played, while questions were propounded.)

25 Q. (BY MR. JONAS) Agent Burns, who was that on the screen

1 in the last segment?

2 A. Abdullah Azzam.

3 Q. Agent Burns, these videos were in the late 1980s, some of  
4 the ones in the early 1990s that we looked at so far?

5 A. That is correct.

6 Q. Did you see any videos later?

7 A. I did.

8 Q. And so we are clear, the videos we looked at so far all  
9 predated the Philadelphia meeting. Correct?

10 A. That is correct.

11 Q. All right. I believe you testified the videos after the  
12 Philadelphia meeting the rhetoric was toned down?

13 A. Yes, it was.

14 Q. Is HLF Search No. 114 a videotape?

15 A. Yes, it is.

16 Q. Where was that taken from?

17 A. That was taken from the HLF offices.

18 Q. Do you know which office, which location, if you know?

19 A. I would have to look at the tape sleeve.

20 MR. JONAS: Your Honor, at this time I would offer  
21 into evidence HLF Search No. 114.

22 THE COURT: That is admitted.

23 MR. JONAS: If we can play segment A of that,  
24 please.

25 Q. (BY MR. JONAS) Before we play that, are you able to date

1     this tape?

2     A.    Yes.   This was dated to approximately 1996.

3     Q.    So this was after Hamas was designated as a terrorist  
4     organization?

5     A.    That is correct.

6                 MR. JONAS:   Please play this.

7                 (Whereupon, HLF Search No. 114, Clip A, was played,  
8                 while questions were propounded.)

9     Q.    (BY MR. JONAS)   Agent Burns, who do you see on the screen  
10    there?

11    A.    That is the Defendant Abdulrahman Odeh.

12    Q.    Thank you.

13                 Agent Burns, do you recognize these two individuals?

14    A.    Yes.

15    Q.    Who are they?

16    A.    The individual singing there on the left of the screen is  
17    Mohammed Mustafa, the HLF's agent in Detroit at the time.

18    Q.    Have you personally met him?

19    A.    I did.

20    Q.    Is that how you recognize him on this picture?

21    A.    It is.

22    Q.    Who is the individual on his right as you face the  
23    screen?

24    A.    That is the Defendant Mufid Abdulqader.

25    Q.    Do you see where it says, "A span of a hand in it"?   Have

1 we seen that phrase or that reference before?

2 A. Yes. In a number of the videotapes that we have watched  
3 where Abdullah Azzam spoke, he said that if a span of a hand  
4 of Muslim land is occupied, then jihad is a mandate.

5 Q. Ahmed Yassin, Agent Burns, who was that again?

6 A. Again, that was the Hamas founder that we identified on  
7 the top of that demonstrative on a number of occasions.

8 Q. Agent Burns, besides seeing the Defendant Mufid  
9 Abdulqader in the band singing songs and in those skits that  
10 we saw, did he do anything else for the HLF?

11 A. He did.

12 Q. What else did he do?

13 A. In the mid to late 1990s, after he moved to Dallas, he  
14 also, in addition to singing with the band at these  
15 fundraisers, he also took on the role as a speaker for the HLF  
16 where he would actually go and make speeches in order to raise  
17 money for the Holy Land Foundation.

18 Q. Have you seen any documents in the search warrant  
19 material that you reviewed that show that?

20 A. Yes.

21 Q. Do you have before you what has been marked as HLF Search  
22 No. 16?

23 A. I do.

24 Q. What is that document, without telling us the contents?

25 A. It is a list of speakers for the HLF.

1 Q. Where was that found?

2 A. It was found in the HLF Dallas office.

3 MR. JONAS: Your Honor, at this time I would offer  
4 into evidence HLF Search No. 16.

5 THE COURT: Admitted.

6 MR. JONAS: If we could put page 2 on the screen,  
7 please.

8 Q. (BY MR. JONAS) Agent Burns, do you see the Defendant  
9 Mufid Abdulqader's name anywhere?

10 A. I do. He is about halfway down the list. You see Mufid  
11 Abdulqader with a 972 telephone number as well as a 214  
12 telephone number.

13 Q. Do you see any other Defendants on this list?

14 A. Yes. The Defendant Shukri Abu Baker is the last  
15 individual on the list.

16 Q. Okay. Agent Burns, have you seen any videotapes of the  
17 Defendant Mufid Abdulqader speaking?

18 A. I have.

19 Q. Is HLF Search No. 112 one of those videotapes?

20 A. It is.

21 Q. Where was that taken from?

22 A. The HLF offices.

23 Q. When?

24 A. In 2001.

25 MR. JONAS: Your Honor, at this time I would offer



1       into evidence HLF Search No. 112.

2               THE COURT:   Any objection?

3               MS. CADEDDU:   No, Your Honor, not beyond what was  
4       already stated.

5               THE COURT:   All right.   That is admitted.

6               MR. JONAS:   If we can play those clips.

7               (Whereupon, HLF Search No. 112 was played, while  
8       questions were propounded.)

9       Q.     (BY MR. JONAS)   Do you see the Defendant Mufid Abdulqader  
10      on the stage anywhere?

11      A.     I do.   He is on the stage in the back wearing the wrap on  
12      his head.   And I guess he is third from the left as you are  
13      looking at the screen.

14      Q.     Okay.   Who is Doctor al-Rantisi?

15      A.     He is one of the Hamas leaders on the chart here.

16      Q.     I am holding up Demonstrative No. 17.   Do you see where  
17      he is?

18      A.     The second from you there.

19      Q.     The one I am pointing to here?

20      A.     That is correct.

21      Q.     The middle row, the second from the right?

22      A.     That is correct.

23      Q.     Okay.   Agent Burns, I am not going to pick up the chart  
24      again, but Dr. Mousa Abu Marzook is on the chart.   Correct?

25      A.     Mousa Abu Marzook is the Hamas leader that we have been

1     talking about at length who was the head of the Palestine  
2     Committee, and also gave money to the HLF, and was arrested in  
3     1995 at JFK Airport. And he is sending him greetings in  
4     prison.

5     Q.    So are you able to date this tape from that?

6     A.    It would have been after July of 1995 when Mousa Abu  
7     Marzook was arrested.

8     Q.    Was that after Hamas was designated as a terrorist  
9     organization by the United States?

10    A.    Yes.

11    Q.    Thank you.

12           Agent Burns, when you interviewed the Defendant Mufid  
13    Abdulqader, did you discuss with him his fundraising and the  
14    money he raised for the HLF?

15    A.    Yes.

16    Q.    Did he say anything about handling of the money; in other  
17    words, what happened to the money once it was raised?

18    A.    He did.

19    Q.    What did he say?

20    A.    Well, we asked him how much he raised on occasion, and  
21    how the money was delivered, and he said that he didn't know  
22    really how much he received because he did not personally  
23    handle the money, especially the cash, and so he was not able  
24    to tell us how much money he raised on a particular occasion.

25    Q.    Did you review any intercepted phone calls where the

1 Defendant Mufid Abdulqader was a participant where he actually  
2 discussed how much he raised?

3 A. Yes.

4 Q. Are those phone calls consistent with the statement he  
5 made with you?

6 A. They were not.

7 Q. Do you have before you what has been marked as Abdulqader  
8 Wiretap No. 1?

9 A. I do.

10 Q. Is that one of the phone calls where the Defendant  
11 discusses raises funds for the HLF?

12 A. It is.

13 Q. Who were the participants on that call?

14 A. The Defendant Mufid Abdulqader, along with HLF employees  
15 Ibrahim Khalil and Moataz Hindawi.

16 Q. What is the date of the call?

17 A. The date of the call is January 2nd, 2000.

18 MR. JONAS: Your Honor, at this time I would offer  
19 into evidence Abdulqader Wiretap No. 1 and the accompanying  
20 audiotape 1-A.

21 THE COURT: Any objections beyond what have been  
22 stated?

23 MS. CADEDDU: No, Your Honor.

24 THE COURT: That is admitted. .

25 MR. JONAS: Play that, please.

1                   (Whereupon, Abdulqader Wiretap No. 1 was played  
2                   while questions were propounded.)

3       Q.     (BY MR. JONAS) Agent Burns, who is the MU on the screen?

4       A.     MU is the Defendant Mufid Abdulqader and IB is HLF  
5       officer Ibrahim Khalil.

6       Q.     Agent Burns, were there more calls where the Defendant  
7       Mufid Abdulqader talked about how much money he raised?

8       A.     Yes, there were.

9       Q.     Do you have before you Baker Wiretap No. 6?

10      A.     I do.

11      Q.     And who is on that call?

12      A.     That is the Defendant Mufid Abdulqader and Haitham  
13      Maghawri.

14      Q.     Who is Haitham Maghawri?

15      A.     One of the HLF officers.

16      Q.     What is the date of the call?

17      A.     January 16, 1989.

18                   THE COURT: Let's take the morning before you play  
19      that. Let's take the morning break. Be back at 11:00.

20                   (Whereupon, the jury left the courtroom.)

21                   THE COURT: We will be in recess until 11:00.

22                               (Brief recess.)

23                   THE COURT: Was there something we needed to take up  
24      before we bring the jury in?

25                   MS. HOLLANDER: Can we approach?

1 THE COURT: All right.

2 (The following was had outside the hearing of the  
3 jury.)

4 MS. HOLLANDER: We don't really need to approach for  
5 one of them, but for one of them we do.

6 You asked us to remind you to admonish the jury.

7 THE COURT: Yes. I will do that at the lunch hour.

8 MS. HOLLANDER: Because she is back.

9 THE COURT: I saw her.

10 MS. HOLLANDER: We didn't need to approach for this  
11 other one, but Agent Burns has something she called her cheat  
12 sheet that she is relying on, and pursuant to 612 we are  
13 entitled to see that.

14 MR. JONAS: They have a copy. We gave it to them  
15 last week I think.

16 MS. HOLLANDER: I would like to see the one she has.

17 MR. JONAS: If you want to see the one she has now,  
18 that is fine.

19 THE COURT: You can see it before cross. You are  
20 entitled to see that. He says you have a copy.

21 MS. HOLLANDER: Can I see if she has any other  
22 marks?

23 MS. CADEDDU: Can I ask, if we have another copy,  
24 what it is called? The names are confusing.

25 MS. HOLLANDER: I need to know what it is. I just

1       didn't want to interrupt.

2               THE COURT:   That is fine.

3               MR. HOLLANDER:   Okay.   Actually Barry gave this to  
4       me.

5               THE COURT:   Is that the one you handed out?

6               MR. JONAS:    Yes.

7               MS. HOLLANDER:   He just gave me one.

8               MS. MORENO:   I didn't see that.

9               MS. CADEDDU:   I didn't see it either.

10              MR. JONAS:    I gave it to you two weeks ago.

11              MS. HOLLANDER:   But I didn't know what it was.   Now  
12       I know what it is.   We have it.

13              THE COURT:    Okay.

14              MS. HOLLANDER:   Thank you.

15              (The following was had in the presence and hearing  
16       of the jury.)

17              THE COURT:    Bring in the jury.

18              (whereupon, the jury entered the courtroom.)

19              THE COURT:    Mr. Jonas?

20              MR. JONAS:    Thank you, sir.

21              MR. JONAS:    Before the break, Agent Burns was  
22       describing Baker Wiretap No. 6.   At this time I offer into  
23       evidence No. 6 and 6-A.

24              THE COURT:    Any objections, beyond what has been  
25       tendered?

1 MS. HOLLANDER: No, Your Honor.

2 THE COURT: Those are admitted.

3 Q. (BY MR. JONAS) Agent Burns, just to remind us, who are  
4 the participants of the call and the date of the call.

5 A. The Defendant Mufid Abdulqader and HLF officer Haitham  
6 Maghawri. The date of the call was January 16th, 1999.

7 Q. Okay.

8 MR. JONAS: Play that call, please.

9 (Whereupon, Baker Wiretap No. 6 was played, while  
10 questions were propounded.)

11 Q. (BY MR. JONAS) Can you tell us who HA is and MU is on  
12 the screen?

13 A. HA is Haitham Maghawri and MU is the Defendant Mufid  
14 Abdulqader.

15 Q. Okay. Agent Burns, this call and the prior call, did  
16 they take place before or after Hamas was designated as a  
17 terrorist organization?

18 A. Several years after.

19 Q. Okay. Do you have Abdulqader Wiretap No. 2 before you?

20 A. I do.

21 Q. What is the date of that call?

22 A. This is January 3rd, 2000.

23 Q. Again, is that before or after Hamas was designated?

24 A. That is almost five years after Hamas was designated.

25 Q. Who are the participants on this call?

1     A.     The Defendant Mufid Abdulqader and an individual named  
2     Sabri.

3             MR. JONAS:   Your Honor, at this time I would offer  
4     Abdulqader Wiretap No. 2 and 2-A.

5             THE COURT:   That is admitted.

6             MR. JONAS:   If we can play that call, please.

7             (Whereupon, Abdulqader Wiretap No. 2 was played,  
8     while questions were propounded.)

9     Q.     (BY MR. JONAS)  Agent Burns, could you just identify the  
10    speakers by their initials?

11    A.     Sabri is SA and the Defendant Mufid Abdulqader is MU.

12    Q.     Okay.  Agent Burns, did the Defendant Mufid Abdulqader,  
13    individually for his fundraising and the band that he was  
14    playing in, incur travel expenses, things like that?

15    A.     He did.

16    Q.     Did you see who paid for those expenses?

17    A.     He said the HLF did.

18    Q.     He said that?

19    A.     Yes.

20    Q.     Did you see -- Was that during the interview of him?

21    A.     It was.

22    Q.     Did you see any documents taken from the HLF that support  
23    that?

24    A.     Yes.

25    Q.     Do you have before you what has been marked as AMEX



1 Records or AMEX No. 2?

2 A. I do.

3 Q. And what is AMEX No. 2?

4 A. Those are American Express records.

5 Q. Does the fact that there is a 2 versus the AMEX Records  
6 No. 1 we already admitted mean they are a separate set of  
7 cards, or separate card?

8 A. They are definitely a separate set of records.

9 Q. Okay. Whose records are they, by the way? Whose AMEX  
10 records?

11 A. For the Holy Land Foundation.

12 MR. JONAS: Your Honor, at this time I would offer  
13 into evidence AMEX No. 2.

14 MS. HOLLANDER: No objection.

15 THE COURT: Admitted.

16 MR. JONAS: If we can put page 1 on the screen,  
17 please.

18 Q. (BY MR. JONAS) Do you see it says Occupied Land Fund?

19 A. I do.

20 Q. What is the time period?

21 A. The beginning records are from November 16th, 1990, and  
22 it looks like this set of records goes through 1994, but I  
23 don't believe these are complete records. These are just  
24 selected records from this time period.

25 Q. And just so we are clear, you testified that AMEX No. 1

1 is also a credit card for the Holy Land Foundation?

2 A. That is correct.

3 Q. Is this separate set of AMEX records a different card  
4 number or account number?

5 A. Yes.

6 Q. Is that correct, a different account number?

7 A. That is correct.

8 Q. That is why there is an AMEX No. 1 and an AMEX No. 2?

9 A. That is correct.

10 Q. If you can turn to page 3, please. Do you see on this  
11 page anywhere where the Holy Land Foundation is paying for the  
12 expenses of the Defendant Mufid Abdulqader?

13 A. Yes. If you will go to the middle there where the arrow  
14 is and enlarge that one, you can see that for this account on  
15 October 5th, 1990, an airline ticket was purchased on American  
16 Airlines for M. Abdulqader from Oklahoma City to Chicago, to  
17 Boston, to Dallas, and back to Oklahoma City.

18 Q. Was he living in Oklahoma City at this time?

19 A. Yes, the Defendant Mufid Abdulqader was living in  
20 Oklahoma City during October of 1990.

21 Q. Remind us again, what did he say about when he started  
22 working for the HLF?

23 A. He said he was not affiliated with them until after he  
24 moved to Dallas in 1995.

25 Q. Do you see the HLF on this page paying for other band

1 members' expenses?

2 A. I do.

3 Q. Whose?

4 A. Just below that record for Mufid Abdulqader we have the  
5 band or the HLF purchasing a ticket on Delta Airlines for band  
6 member Munzer Taleb from Dallas to Boston.

7 Q. And throughout these AMEX records, do you see other  
8 expenses that are being paid for on behalf of the Defendant  
9 Mufid Abdulqader on behalf of the HLF?

10 A. Yes.

11 MR. JONAS: Let's go to page 5 and look at one more.

12 Q. (BY MR. JONAS) Do you see where these expenses are being  
13 paid here?

14 A. Yes. On the right hand column third from the top, again  
15 you can see where the HLF purchased an airline ticket on  
16 American Airlines for Mufid Abdulqader on October 20th, 1990  
17 from Oklahoma City to Dallas, Phoenix, back through Dallas, to  
18 Oklahoma City.

19 Q. So if you look through the AMEX records, would you see  
20 other samples of these type of payments?

21 A. Yes, you would. I don't know if in this one there are  
22 additional records for Mufid, but there are more records that  
23 show that.

24 Q. Do you have before you what is marked as HLF Search No.  
25 15?

1 A. I do.

2 Q. What is that item?

3 A. This is an invoice from Al-Nujoom Band to the Holy Land  
4 Foundation.

5 Q. What is the date?

6 A. September 1st, 1998.

7 Q. Okay.

8 MR. JONAS: Your Honor, at this time I would offer  
9 into evidence HLF Search No. 15.

10 THE COURT: Admitted.

11 MR. JONAS: If we can put that on the screen,  
12 please.

13 Q. (BY MR. JONAS) Do you recognize -- I know it is a little  
14 tough to read on the screen. Do you recognize who the band  
15 members are?

16 A. I do.

17 Q. Who are they?

18 A. Here you have Munzer Taleb, Kifah Mustapha, who was also  
19 the HLF's Chicago representative, the Defendant Mufid  
20 Abdulqader, and a man named Sabri Sabri.

21 Q. Okay. And is this bill addressed to the Holy Land  
22 Foundation?

23 A. It is. If you go up to the top, it says "bill to Holy  
24 Land Foundation."

25 Q. Was this bill before or after Hamas was designated as a

1 terrorist organization?

2 A. After.

3 Q. Was the Defendant Mufid Abdulqader a salaried employee of  
4 the HLF?

5 A. No, he was not.

6 Q. Did he receive any compensation at all for his  
7 fundraising?

8 A. He said that -- In his interview he said that he only  
9 received reimbursement for expenses, but some of the material  
10 from the search warrant indicates that he received additional  
11 payments.

12 Q. Okay. Do you have before you what has been marked as HLF  
13 Search No. 17? I am going to ask you for a series of  
14 exhibits, HLF No. 17, 18, 19, and 20.

15 A. I do.

16 Q. Do those all relate to each other?

17 A. They do.

18 Q. Do they relate to any compensation provided to Mufid  
19 Abdulqader by the HLF?

20 A. Yes, they do.

21 MR. JONAS: Your Honor, at this time I would offer  
22 into evidence HLF Search No. 17, 18, 19, and 20.

23 THE COURT: Admitted.

24 MR. JONAS: If we can put HLF Search No. 17 on the  
25 screen, please.

1 Q. (BY MR. JONAS) Agent Burns, what is this item?

2 A. This is a check to the Defendant Mufid Abdulqader from  
3 the Holy Land Foundation dated January 4th, 2000 in the amount  
4 of \$1,000. And if you look on the back of the check, it  
5 actually has Mufid Abdulqader's signature, which, if you will  
6 recall, we identified on the hotel room voucher from the  
7 Philadelphia meeting.

8 Q. The Marriott record?

9 A. The Marriott records. That is correct.

10 Q. Who signed this check?

11 A. If we go to the first page, the Defendant Shukri Abu  
12 Baker.

13 Q. And does HLF Search No. 18 relate back to this page? To  
14 this check?

15 A. It does.

16 MR. JONAS: If we can put HLF Search No. 18 on the  
17 screen, please.

18 Q. (BY MR. JONAS) What is it about this document that  
19 relates to that check?

20 A. This is a list of Eid bonuses. Basically the Holy Land  
21 Foundation paid bonuses to its employees and volunteers for  
22 their work during a fundraising effort. And if you will look  
23 at No. 10 on the list, it indicates that Mufid Abdulqader  
24 received \$1,000. And again, if you scroll back up to the top  
25 you will see the title of this is Eid bonus.

1 Q. And are there other Defendants who are also on this list?

2 A. There are.

3 Q. Who?

4 A. No. 2 is the Defendant Mohammad El-Mezain and No. 5 is  
5 the Defendant Abdulrahman Odeh.

6 Q. Is HLF Search No. 19 and 20 also an Eid bonus with  
7 accompanying documentation?

8 A. Well, HLF Search No. 18 I believe is multiple pages, and  
9 it actually has the checks supporting those Eid bonuses. And  
10 HLF Search No. 19 is another check for something different.

11 MR. JONAS: Let's put HLF search 19 on the screen,  
12 please.

13 Q. (BY MR. JONAS) And what is that?

14 A. HLF Search No. 19 is a check to Mufid Abdulqader from the  
15 Holy Land Foundation, April 27th, 2000, in the amount of  
16 \$1,000.

17 Q. Does HLF Search No. 20 relate to this check?

18 A. It does.

19 Q. Okay.

20 MR. JONAS: If we can put HLF Search No. 20 on the  
21 screen, please.

22 Q. (BY MR. JONAS) And what does this document indicate the  
23 check is for?

24 A. It indicates that the \$1,000 check to Mufid Abdulqader  
25 was for services during the Eid.

1 Q. Just so we are clear, he was not a salaried employee?

2 A. He was not.

3 Q. But he was receiving some bonuses for his work?

4 A. That is correct. For his services, as opposed to his  
5 expenses.

6 Q. Were there any phone calls from Mufid Abdulqader and an  
7 HLF employee where they discussed him receiving more than just  
8 these bonuses?

9 A. Yes.

10 Q. Do you have before you what is marked as Baker Wiretap  
11 No. 7?

12 A. I do.

13 Q. What is the date of that call?

14 A. July 9th, 1998.

15 Q. Who are the participants?

16 A. The Defendant Mufid Abdulqader, his cousin Akram Mishal  
17 who was also an HLF officer, and HLF employee Ayman Ismail.

18 MR. JONAS: Your Honor, at this time I would offer  
19 into evidence Baker Wiretap No. 7 and 7-A.

20 MS. HOLLANDER: Nothing further, Your Honor.

21 THE COURT: Admitted.

22 MR. JONAS: If we can play that call, please.

23 (Whereupon, Baker Wiretap No. 7 was played, while  
24 questions were propounded.)

25 Q. (BY MR. JONAS) Who is AK?



1 A. This is Akram Mishal.

2 Q. Agent Burns, did you come across any other phone call or  
3 document in all the material you reviewed that indicates  
4 whether or not the Defendant Mufid Abdulqader actually started  
5 receiving a percentage of the money he raised?

6 A. Yes.

7 Q. You did?

8 A. Well, other than in addition to the ones we have looked  
9 at?

10 Q. Right.

11 A. I don't recall anything in addition to the ones we have  
12 looked at.

13 Q. Okay. So you don't know whether or not they actually  
14 followed through?

15 A. I do not know that they followed through on that phone  
16 call.

17 Q. Okay. Agent Burns, were there other documentation taken  
18 from the Holy Land Foundation that shows the Defendants Mufid  
19 Abdulqader's fundraising and travel on behalf of the HLF?

20 A. Yes.

21 Q. Okay. I want to run through the series of exhibits with  
22 you, but before I do that let me ask you this one other  
23 question.

24 Did you assist in creating a demonstrative chart that  
25 shows an example of some of the activity that he performed on

1     behalf of the HLF?

2     A.    Yes, I did.

3     Q.    And is that chart based upon some of the documents that I  
4     just asked you about that were taken from the HLF search  
5     warrant?

6     A.    That, and some of the videotapes we have seen.

7                 MR. JONAS:  Your Honor, I would like to offer into  
8     evidence the supporting documentation for this demonstrative  
9     chart.  And I will Agent Burns just quickly the item is as we  
10    go through them.

11                THE COURT:  All right.

12    Q.    (BY MR. JONAS)  Agent Burns, HLF Search No. 21, what is  
13    that?

14    A.    It is a travel itinerary for the Defendant Mufid  
15    Abdulqader.

16                MR. JONAS:  Your Honor, I will run through these and  
17    then I will offer them into evidence.

18                THE COURT:  All right.

19    Q.    (BY MR. JONAS)  HLF Search No. 22?

20    A.    It is also a travel itinerary for the Defendant Mufid  
21    Abdulqader.

22    Q.    Okay.  HLF Search No. 23?

23    A.    This is a document taken from the HLF computers  
24    indicating a number of individuals who raised money for the  
25    HLF--dates and amounts.

1 Q. Okay. HLF Search No. 142?

2 A. I am looking for that one in my binder, and you will have  
3 to bear with me. I don't see No. 142.

4 MR. JONAS: Your Honor, may I approach?

5 THE COURT: Yes.

6 Q. (BY MR. JONAS) Let me hand you the original stack.

7 A. Okay.

8 Q. HLF Search No. 142?

9 A. This is a page from a calendar relating to Mufid  
10 Abdulqader's fundraising activities.

11 Q. HLF Search No. 143?

12 A. This is a page from a daily planner again relating to the  
13 fundraising activity of Mufid Abdulqader.

14 Q. HLF Search No. 144?

15 A. This appears to be the same document that we saw in HLF  
16 Search No. 18. It is just one page as opposed to the multiple  
17 pages in HLF Search No. 18.

18 Q. HLF Search No. 145?

19 A. This is a check relating to the fundraising activity of  
20 Mufid Abdulqader.

21 Q. Who is it made out to?

22 A. Mufid Abdulqader.

23 Q. Is it one of the checks we looked at already?

24 A. Well, it is actually the record stub from -- It is not  
25 the actual check. And it is for a different amount. It is a

1 different item.

2 Q. A different check?

3 A. Yes.

4 Q. HLF Search No. 146?

5 A. This would be a calendar entry relating to the  
6 fundraising activities of the band.

7 Q. The band that the Defendant Mufid Abdulqader is part of?

8 A. That is correct.

9 Q. HLF Search No. 147?

10 A. This is a document taken from the HLF Chicago office  
11 relating to an IAP convention where the Defendant Mufid  
12 Abdulqader took part.

13 Q. Agent Burns, are the dates for these items, do they range  
14 over several years, or are they all the same time period?

15 A. They range over several years.

16 MR. JONAS: Your Honor, at this time I would offer  
17 into evidence HLF Search No. 21, 22, 23, 142, 143, 144, 145,  
18 146, and 147.

19 THE COURT: Any objections?

20 MS. CADEDDU: No, Your Honor.

21 THE COURT: All right. Those are admitted.

22 Q. (BY MR. JONAS) Agent Burns, you said that you created or  
23 assisted in creating a demonstrative chart that sort of  
24 summarized some of the activity that the Defendant Mufid  
25 Abdulqader conducted on behalf of the HLF?

1 A. That is correct.

2 Q. Agent Burns, I am holding up an enlargement. Is this the  
3 chart you assisted in creating?

4 A. It is.

5 Q. Would this chart assist the jury in understanding your  
6 testimony?

7 A. It will.

8 MR. JONAS: Your Honor, I would offer as a  
9 demonstrative exhibit what has been marked as Demonstrative  
10 No. 19.

11 MS. CADEDDU: Your Honor, I would like to look at  
12 it, because I think I may have a different version.

13 THE COURT: Sure. Come take a look.

14 MR. JONAS: Your Honor, I will put it in the easel  
15 in one moment.

16 THE COURT: Any objection?

17 MS. CADEDDU: Well, I am trying to get a corrected  
18 copy, Your Honor. As a demonstrative I don't have an  
19 objection.

20 THE COURT: Okay. Admitted.

21 Q. Agent Burns, does this demonstrative chart reflect all  
22 the activity of the Defendant Mufid Abdulqader on behalf of  
23 the Holy Land Foundation?

24 A. No, it does not.

25 Q. Can you just run through it real quick with us, if you

1 can?

2 A. What we did in creating this was try to give an example  
3 of his activities throughout the time period of the activities  
4 discussed in the indictment, beginning in 1988 with videos  
5 where we see him performing, and then going through 2001 which  
6 was the date that the HLF stopped operating.

7 So in this for 1988 you will have the exhibit number  
8 listed first where one can go and look at that exhibit to  
9 determine that it is in fact what it says it is supposed to  
10 be. For example, in 1988 Mushtaha Search No. 7 is a video  
11 which features Mufid Abdulqader singing in the band at one of  
12 these festivals that we have talked about.

13 Q. So if someone were to look at the exhibits, they would  
14 see either a video of some of which I assume we saw already?

15 A. That is correct.

16 Q. And then the documents you talked about, the calendar  
17 entry, for example, HLF Search No. 142 in 1999, the Baker  
18 Wiretap No. 6, the one we played, and all this relates back to  
19 one shape or another the Defendant Mufid Abdulqader, the band  
20 singing for the HLF, him fundraising for the HLF, HLF paying  
21 for his expenses. Is that correct?

22 A. That is correct.

23 Q. Just so we are clear, this isn't everything.

24 A. No, this is just a sample.

25 Q. Okay. Let me put this down now.

1           Agent Burns, you said that there was an HLF Search No. 23  
2           that was a multiple page document.

3           A.    Yes.

4           Q.    And could we turn back to that real quick?  And what is  
5           that document?

6           A.    I have too many binders.

7           Q.    That is okay.

8           A.    This is I guess you would call it a spreadsheet that was  
9           taken from the HLF computers that indicates -- I don't know if  
10          we want to put it on the screen so I can describe it better.  
11          It is hard to describe without looking at it.

12                   MR. JONAS:  If we can put page 145 on the screen.

13                   THE WITNESS:  Well, on the first page it actually --  
14          On the title the first line says "solicitor," which indicates  
15          the fundraiser, the individual who was soliciting funds.  Do  
16          you see that on the top?  And then there is a date, and then  
17          there is a city, and then there is a sum, and it says amount  
18          received.  So this is the document as it was on the computer.

19                   On the left hand side you will see the names of the  
20          different solicitors, the individuals who were raising the  
21          money, the dates, sometimes there is a location noted, and  
22          then there is an amount received noted.

23           Q.    (BY MR. JONAS)  Is this in chronological order, this  
24           document?

25           A.    Yes.

1 Q. What is the date range?

2 A. This document ranges from it looks like December of '89  
3 through August 29th of 2000.

4 Q. Do you see the same person multiple times?

5 A. Yes. You will see many of the same individuals listed  
6 many times.

7 Q. Is the Defendant Mufid Abdulqader listed in here?

8 A. He is.

9 Q. Okay.

10 MR. JONAS: Can we turn to page 145, please?

11 Q. (BY MR. JONAS) Do you see the Defendant on this page?

12 A. Yes. If you will look about two thirds of the way down  
13 the page you will see the Defendant Mufid Abdulqader's name  
14 listed under solicitor with the date of January 6th, 1999, and  
15 an amount \$1,650. If you look about seven lines above that  
16 you will see his name for January 4th, 1999 and the amount of  
17 \$3,650.

18 Q. So is his name in this document more than just those two  
19 times that you identified?

20 A. Yes, many times. You can go through and look.

21 Q. Well, we are not going to do that.

22 A. Okay.

23 Q. But I do want to talk about another fundraiser for the  
24 HLF. Were any of the other Defendants fundraisers besides the  
25 Defendant Mufid Abdulqader?



1 A. Yes. Many of the Defendants were credited with  
2 fundraising activity in one form or another.

3 MR. JONAS: If we can stay with HLF Search No. 23  
4 and go back to page 1, please.

5 Q. (BY MR. JONAS) Do you see any other Defendants on this  
6 page?

7 A. Yes. On the second line is the Defendant Shukri Abu  
8 Baker.

9 Q. Any others?

10 A. The third line is the Defendant Mohammad El-Mezain noted  
11 there. It says Mezain plus Jabar.

12 Q. In fact, you see El-Mezain's name several pages on this  
13 page. Is that correct?

14 A. That is correct. And then throughout the document the  
15 New Jersey regional office is noted or credited with having  
16 raised money.

17 MR. JONAS: Turn to page 17.

18 Q. (BY MR. JONAS) Do you see the New Jersey regional office  
19 anywhere on this page?

20 A. Yes. Close to the top there is an example. It says New  
21 Jersey regional office, 17th October, 1995, and I believe that  
22 is \$380 across from that entry. And then there is another  
23 entry about eight or nine names down for the 20th of October,  
24 1995, \$350.

25 Q. Who was the New Jersey office?

1 A. Abdulrahman Odeh was the manager of that office, and as  
2 far as I know there were no other employees there.

3 Q. Now, I want to talk about the Defendant Mohammad  
4 El-Mezain for a moment. We have seen him in a few videotapes  
5 fundraising. Is that correct?

6 A. That is correct.

7 Q. And do you recall the phone call that we played, Baker  
8 Wiretap No. 5, between the Defendant Shukri Abu Baker and Omar  
9 Ahmad from the Palestine Committee discussing how much money  
10 to pay to the Defendant Mohammad El-Mezain for his  
11 fundraising?

12 A. I do.

13 Q. Okay. Besides what we have seen and heard, have you seen  
14 other videotapes of the Defendant Mohammad El-Mezain doing  
15 fundraising?

16 A. Yes, I have.

17 Q. Okay. Do you have HLF Search No. 124 before you?

18 A. It is a videotape so I do not have it before me, but I  
19 know what you are talking about.

20 Q. And what is the year of that tape, if you can date it?

21 A. That one can was dated to October 29th, 1995.

22 Q. Okay. Where was this tape taken from?

23 A. The HLF offices.

24 Q. And when was it taken?

25 A. In December of 2001.

1           MR. JONAS: Your Honor, at this time I would offer  
2 into evidence HLF Search No. 124.

3           MR. DRATEL: Your Honor, the prior objections.

4           THE COURT: Those have been overruled, and HLF No.  
5 124 is admitted.

6 Q.    (BY MR. JONAS) Before we play this tape, you said the  
7 date is what again?

8 A.    HLF Search No. 124 is October 29, 1995.

9 Q.    And was this before or after Hamas was designated as a  
10 terrorist organization?

11 A.    Hamas was initially designated in January of '95, so this  
12 was approximately ten and a half months or ten months after  
13 the designation.

14 Q.    Okay.

15           MR. JONAS: Can we play HLF Search No. 124, please?

16           (Whereupon, HLF Search No. 124 was played, while  
17 questions were propounded.)

18 Q.    (BY MR. JONAS) Mousa Abu Marzook who was that again?

19 A.    Well, Mousa Abu Marzook is the Hamas leader who was  
20 detained at the time of this tape. He said Mahmoud, but  
21 Mahmoud Abu Marzook was not detained at the time of this tape.

22 Q.    So it has to be Mousa he is referring to, or would you  
23 assume?

24 A.    In the context of this and the other videotapes it would  
25 be Mousa Abu Marzook who was detained.

1 Q. Okay. Here he says Mousa Abu Marzook?

2 A. He gets it right in this one.

3 Q. Is this the same Mousa Abu Marzook that is the head of  
4 the Palestine Committee and on Demonstrative No. 17 that is  
5 one of the leaders of Hamas that we have talked about many  
6 times?

7 A. Yes.

8 Q. This individual just said, "...for the legality in the  
9 making of the donations," and I may not be getting every word  
10 exactly right. At this time in October 1995 was Marzook  
11 himself designated as a terrorist?

12 A. Yes. At the time of this videotape Mousa Abu Marzook had  
13 been personally designated as a terrorist because of his role  
14 with the Hamas terrorist organization.

15 Q. Okay. He said, "There is no reason to hesitate to make a  
16 donation." Were people allowed to make donations for  
17 Marzook's defense?

18 A. They were.

19 Q. Why was that?

20 A. There was a committee who went to the United States  
21 Treasury department and obtained a license to raise funds for  
22 his legal defense.

23 Q. And the license gives them permission to do so?

24 A. That is correct.

25 Q. Who do we see on the screen now?

1 A. The speaker is the Defendant Mohammad El-Mezain.

2 Q. Okay. Agent Burns, what is the Bank and what is the  
3 Strip that he just referred to?

4 A. The Bank is the West Bank and Gaza -- the Strip is the  
5 Gaza Strip.

6 Q. Okay. Agent Burns, did you see where the Defendant  
7 Mohammad El-Mezain asked for \$500 to liberate a prisoner?

8 A. I did.

9 Q. And was there anything in the Hamas charter about  
10 supporting prisoners or special segments of this society?

11 MR. DRATEL: Objection, Your Honor; relevance.

12 THE COURT: Overruled. Go ahead.

13 THE WITNESS: Yes.

14 Q. (BY MR. JONAS) And what does the Hamas charter say about  
15 doing those sort of things, if you recall?

16 A. It said that they wanted to support that portion of their  
17 population.

18 Q. That is what the Hamas charter said?

19 A. If we can pull it up, we can look at the exact language  
20 if you would like to.

21 Q. No, that is okay. We can move on.

22 I want to show you an earlier tape of Mohammad El-Mezain  
23 Is there a video Mushtaha Search No. 15?

24 A. There was.

25 Q. What is the year of that video?

1       A.     That one was dated between 1988 and 1992.  It was before  
2       the Oslo Accords were signed during the Intifada.

3               MR. JONAS:  Your Honor, at this time I would offer  
4       into evidence Mushtaha Search No. 15.

5               MR. DRATEL:  Objection again, Your Honor, as  
6       previously stated.

7               THE COURT:  That is overruled, and Mushtaha Search  
8       No. 15 is admitted.

9               MR. JONAS:  If we can play those two clips, please.

10              (Whereupon, Mushtaha Search No. 15 was played, while  
11       questions were propounded.)

12       Q.     (BY MR. JONAS)  Do you see where he said the term  
13       Mujahideen in Palestine?

14       A.     Yes.

15       Q.     Is that term, Palestinian Mujahideen, one we will discuss  
16       in a few moments?

17       A.     Yes.

18       Q.     Who are the two individuals that are on the screen?

19       A.     The individual that is speaking right there in the center  
20       of the screen is Fawaz Mushtaha, the person whose yard the  
21       tapes were found in and also a member of the Palestine  
22       Committee.  And to his left is the Defendant Mufid Abdulqader.

23       Q.     Okay.  Agent Burns, are there other methods of  
24       fundraising that we are going to cover later in this trial?

25       A.     Yes.  The HLF used several different methods.

1 Q. Okay. In reviewing the body of material that you saw,  
2 the search warrant material, et cetera, did you come across  
3 anything that indicates a reaction by the audience of some of  
4 these conferences to the HLF?

5 A. It did.

6 Q. And what sort of item did you review that showed their  
7 reaction to the rhetoric espoused by the band and by the  
8 speakers?

9 A. There were pieces of correspondence addressed to the Holy  
10 Land Foundation indicating what those donors or potential  
11 donors thought of the Holy Land Foundation. In addition,  
12 there were checks that were made out to the Holy Land  
13 Foundation with comments on them indicating where they wanted  
14 their money to go.

15 Q. Okay. Let's start with the checks.

16 A. Okay.

17 Q. If you have the NAIT records before you.

18 A. I do.

19 Q. It is already in evidence.

20 MR. JONAS: And if we can put page 110 of the NAIT  
21 records on the screen, please.

22 Q. (BY MR. JONAS) Do you see check No. 188 on this page  
23 anywhere, the bottom right hand corner?

24 A. Yes, I do.

25 Q. This check is made out to MAYA. How do you know -- Was

1     this check for the HLF?

2     A.    Yes, it was.  The records that make up this exhibit, this  
3     NAIT exhibit, were records produced to me by NAIT in response  
4     to my request for all records relating to the Holy Land  
5     Foundation.  These were checks that were deposited into the  
6     account of the Holy Land Foundation, which was at that time  
7     known as the Occupied Land Fund, the account at NAIT.

8     Q.    Now, the check is made out to MAYA, M-A-Y-A.  Have we  
9     seen that name before, just this morning?

10    A.    Yes, we have.

11    Q.    Where?

12    A.    Well, it is one of the Muslim Brotherhood organizations  
13    on several of those lists that we saw.  It also sponsors some  
14    of the conferences that the HLF raised money.

15    Q.    Was this the organization that the Defendant Mohammad  
16    El-Mezain referred to in one of those tapes when he was  
17    talking about him and Abdullah Azzam?

18    A.    Yes, it was.

19    Q.    What does it say in the memo section?

20    A.    It says "for Palestinian Mujahideen only."

21    Q.    Were there other checks that said Palestinian Mujahideen  
22    on them?

23    A.    Yes, there were a number of them.

24           MR. JONAS:  If we could look at check No. 250.  Is  
25    that on this page as well in the center?



1 Q. (BY MR. JONAS) Okay. This is also made out to MAYA.  
2 Was this part of the response by NAIT for the HLF records?

3 A. Yes.

4 Q. Okay. In the memo section, I know it is difficult to  
5 read, but can you see the language?

6 A. It is in Arabic.

7 MR. JONAS: If we can turn to page 115.

8 Q. (BY MR. JONAS) Is the Arabic translated?

9 A. It is.

10 Q. This is check 250. What does the memo section, or what  
11 does it say in the memo section of 250?

12 A. It says, "Donation to the martyrs a and Mujahideen of  
13 Palestine."

14 MR. JONAS: If we can turn to page 111, please.

15 Q. (BY MR. JONAS) Do we see check 1119? This check is made  
16 out to the Islamic Association for Palestine. How do you know  
17 this check is for the HLF?

18 A. It was deposited into the HLF account that the HLF held  
19 at NAIT through ISNA so they deposited it into that HLF  
20 account.

21 Q. This document in the memo section, what language is that  
22 the writing in the memo section?

23 A. The memo section is Arabic.

24 MR. JONAS: If we can turn to page 126. Do we see  
25 the translation for that check? I may have the wrong check

1 number.

2 Q. (BY MR. JONAS) We see another check 156 where it says  
3 Mujahideen --

4 A. That is correct.

5 Q. -- of Palestine. Okay. Did you come across any material  
6 that identifies what the Palestinian Mujahideen is?

7 A. I did.

8 Q. Do you have before you HLF Search No. 109?

9 A. I do.

10 Q. What is that document?

11 A. This is a book that was published by the United  
12 Association for Studies and Research found in the Defendant  
13 Abdulrahman Odeh's office that relates to the Palestinian  
14 Mujahideen.

15 Q. Who published the book?

16 A. The United Association for Studies and Research, the  
17 UASR.

18 Q. UASR is who again?

19 A. One of the three organizations that made up the  
20 Palestinian Committee, the one that Mousa Abu Marzook actually  
21 was one of the original officers of.

22 Q. What language is the book in?

23 A. The book is in Arabic.

24 MR. JONAS: Your Honor, at this time I would offer  
25 into evidence HLF Search No. 109.

1 MR. WESTFALL: No objection, Your Honor.

2 THE COURT: Admitted.

3 Q. (BY MR. JONAS) Agent Burns, what is the title of this  
4 book?

5 A. The title of the book can be found on page 138 of the  
6 exhibit, or at least that is my page number. It says, "A  
7 study about the Islamic resistance movement, Hamas."

8 Q. Is there anything in the translation or anything in the  
9 book that has been translated by the FBI that identified what  
10 the Palestinian Mujahideen is?

11 A. Yes.

12 Q. What page is that on?

13 A. Page 140.

14 MR. JONAS: Page 140, please.

15 Q. (BY MR. JONAS) What does it say?

16 A. Well, the beginning, and again we just exhibited a  
17 portion of this book because it was quite lengthy, it  
18 discusses in the first paragraph an interview with Hamas  
19 founder Sheikh Ahmed Yassin, and it identifies him as the head  
20 of the Hamas movement in the occupied territories, which are  
21 the Palestinian territories.

22 It is a question and answer session. And you will see  
23 where he goes on to ask him when the Hamas movement was  
24 established, and Sheikh Ahmed Yassin says, "In the beginning  
25 of the Intifada in December of 1987."

1           The next question is, "Does this apply to Hamas in both  
2 the West Bank and the Gaza Sector?"

3           Sheikh Ahmed Yassin's answer is, "Yes."

4           Question: "Can you tell us how Hamas was formed?"

5           Answer, Sheikh Ahmed Yassin says, "we contacted several  
6 people in every region and we spoke with them and they agreed.  
7 We then started to work."

8           Question: "How can wings the movement had [sic]?"

9           Sheikh Ahmed Yassin says, "Hamas is a political movement.  
10 As for the military and security wings, they were formed prior  
11 to the Intifada, but Hamas is a new thing."

12          Question: "What was the name of the military wing?"

13          Sheikh Ahmed Yassin, "Says the Palestinian Mujahideen."

14 Q.     So the Palestinian Mujahideen, which we have seen on  
15 these memo sections or checks for the HLF was the name of the  
16 military wing of Hamas?

17 A.     That is correct. The original name that they said even  
18 predated the official creation of Hamas.

19 Q.     Okay. You mentioned earlier that there were letters sent  
20 by some donors to the HLF. Do these letters also talk about  
21 the Mujahideen?

22 A.     They do.

23 Q.     Do you have before you what has been marked as InfoCom  
24 Search No. 7, infoCom Search No. 8, and InfoCom Search No. 9?

25 A.     I have InfoCom Search No. 7. If you will let me look at

1 the originals of No. 8 and 9.

2 Q. Sure.

3 MR. JONAS: Your Honor, if I may approach?

4 THE COURT: Yes.

5 Q. (BY MR. JONAS) Do you have No. 8 and 9?

6 A. I do.

7 Q. What are those three items?

8 A. These are pieces of correspondence relating to the Holy  
9 Land Foundation that were taken from InfoCom in September of  
10 2001.

11 MR. JONAS: Your Honor, at this time I would offer  
12 into evidence InfoCom Search No. 7, infoCom Search No. 8, and  
13 InfoCom Search No. 9.

14 MS. MORENO: Subject to our previous objections,  
15 Your Honor.

16 MS. HOLLANDER: These are hearsay, Your Honor.

17 THE COURT: Those have been overruled. Those  
18 exhibits are admitted.

19 Q. (BY MR. JONAS) Agent Burns, I am going to hold up HLF  
20 Search No. 7 for a moment. Do you see this is the original  
21 letter. Is that correct?

22 A. That is correct. With the envelope attached.

23 Q. InfoCom Search No. 7. My mistake. And the letter is in  
24 what language?

25 A. The letter is in Arabic.

1           MR. JONAS: If we can turn to page 5 of the exhibit  
2 which should be the English translation.

3           THE WITNESS: That is correct.

4       Q.    (BY MR. JONAS) Okay. And who is this letter addressed  
5 to?

6       A.    To the Defendant Shukri Abu Baker. The Fund's executive  
7 director.

8       Q.    What is the first paragraph, what does it say?

9       A.    It just says, "May God bless you and all the honorable  
10 brothers who perform the best of charitable deeds which is  
11 supporting the Mujahideen in the occupied land."

12      Q.    Okay. Are you able to date this letter? If it would  
13 help, I can show you the envelope.

14      A.    I have the envelope. It was postmarked May 30th, 1990.

15      Q.    Okay. And this was found when?

16      A.    It was found or it was seized from InfoCom in September  
17 of 2001.

18      Q.    And InfoCom Search No. 8, what is that?

19      A.    This is a copy of a handwritten letter in Arabic to the  
20 Holy Land Foundation. It says, "To whom it may concern."

21           MR. JONAS: If we can put that on the screen,  
22 please.

23      Q.    (BY MR. JONAS) What is the page for the --

24      A.    Page 2.

25      Q.    Do you know the date of this letter?

1 A. This letter was undated.

2 Q. And does it indicate anywhere in this letter about the  
3 Palestinian Mujahideen?

4 A. Yes. In the second paragraph this individual notes, "I  
5 am enclosing with this letter of mine a small money transfer  
6 for my Mujahideen brothers in Palestine, and I ask God to  
7 bless it for them and to help them, keep them steadfast, and  
8 to support them with victory."

9 Q. Okay. Were there any -- I am sorry. InfoCom Search No.  
10 9, what is that?

11 A. This is a handwritten letter on Occupied Land Fund  
12 letterhead.

13 Q. Okay. What language is that in?

14 A. It is in Arabic.

15 Q. Is it written by someone that you recognize as being an  
16 employee of the Occupied Land Fund or the HLF?

17 A. Actually if you look at the context of the letter in  
18 English, the translation, it indicates that it is sent from a  
19 representative of the Fund in Canada, and this individual  
20 identifies himself as Ibrahim Al Kurdi. I do not know that  
21 individual.

22 Q. What page is the English?

23 A. Page 2.

24 Q. What does this individual say about Mujahideen?

25 A. In the second paragraph he actually talks about jihad as

1     opposed to Mujahideen.  "Attached is a check in the amount of  
2     \$9,873 to the Occupied Land Fund as a contribution to support  
3     to jihad in Palestine."

4     Q.    Did you come across any letters that actually talked  
5     about Hamas, letters sent to the Holy Land Foundation that  
6     talked about Hamas?

7     A.    Yes.

8     Q.    Do you have before you what has been marked as HLF No.  
9     25?

10    A.    I do.

11    Q.    I am sorry.  I skipped ahead.  InfoCom Search No. 10.

12    A.    I need the original of that one.

13    Q.    Okay.

14    A.    Thank you.

15    Q.    What is that document?

16    A.    This is a letter to the Holy Land Foundation and a  
17    response from the Holy Land Foundation.

18    Q.    Where was this letter found?

19    A.    At the Holy Land Foundation -- Excuse me.  InfoCom.

20           MR. JONAS:  Your Honor, at this time I would offer  
21    into evidence InfoCom Search No. 10.

22           MS. HOLLANDER:  Nothing further, Your Honor.

23           THE COURT:  Okay.  That exhibit is admitted.

24           MR. JONAS:  If we can put the first page on the  
25    screen, please.



1 Q. (BY MR. JONAS) This letter is also on letterhead of the  
2 Occupied Land Fund. Was this written by someone who works for  
3 the Occupied Land Fund?

4 A. Yes. This is a response to the original letter which is  
5 attached, and it is -- This particular letter was sent from  
6 the Holy Land Foundation by Shukri Abu Baker.

7 Q. Okay.

8 MS. HOLLANDER: Can we have a date, please?

9 THE WITNESS: The response that we are discussing  
10 right here was sent or dated May 15th, 1991.

11 MR. JONAS: Can we go to the original letter that this is  
12 responding to?

13 Q. (BY MR. JONAS) What page is that?

14 A. Page 2 is the original letter.

15 Q. What language is this in?

16 A. It is also in Arabic.

17 Q. Have both these letters been translated?

18 A. They have.

19 Q. Which page is the translation for this current exhibit,  
20 this current page, page 2?

21 A. For the original letter on page 2, the translation begins  
22 on page 8.

23 MR. JONAS: Let's go to page 8.

24 Q. (BY MR. JONAS) And what is this person writing to the  
25 HLF about?

1     A.     This lady writes and addresses her letter to the director  
2     of the Occupied Land Fund there on top. After greetings she  
3     says, "You used to send me publications about Hamas'  
4     communiques and about the activities of the Islamic Office,  
5     then you stopped. I presented to some of our brothers in God,  
6     my colleagues at work, the idea of supporting the Uprising.  
7     By God's grace it was accepted by them.

8             "We will send you an undetermined amount quarterly as  
9     much as they are able to give, and that is in support of the  
10    blessed Islamic Uprising in Palestine.

11            "I would like to inquire about Hamas' books by Ahmed  
12    Yousef and also his book about Ahmad Yasin. I would like to  
13    obtain them. Please advise me of the cost with my thanks."

14    Q.     Okay. What was the response by Shukri Baker?

15    A.     On page 7, Shukri Abu Baker acknowledges the receipt of  
16    her letter. And the year is noted. It should be translated.  
17    But obviously that was August 10th of it should be 1990, I am  
18    assuming, "...which transmits your noble feelings and generous  
19    support in benefit of our steadfast people in occupied  
20    Palestine." So in the first paragraph he is acknowledging  
21    receipt of the original letter.

22            He says, "As for the books you are inquiring about, we  
23    contacted the Islamic Association for Palestine which is the  
24    distributing party of statements, publications, and books  
25    relating to the Palestinian cause. They promised us well. I

1 hope that some of their publications have reached you along  
2 with this letter mine [sic] or sooner.

3 "It's important to me, while you and your friends are  
4 about to start supporting our relatives in the occupied  
5 territory, to assure you that the Occupied Land Fund is your  
6 trustworthy organization to which the hearts of thousands of  
7 people of charity everywhere look up to, hoping and taking  
8 advantage of the historic opportunity to support the  
9 resistance of a nation and the jihad of a people. May God  
10 protect you and guide your steps on the path of charity."

11 Signed "Your brother, Shukri Abu Baker."

12 Q. Does this letter say anything about distancing himself or  
13 the Occupied Land Fund from Hamas?

14 A. No, it does not.

15 Q. What was the Occupied Land Fund/Holy Land Foundation  
16 supposed to be at this time?

17 A. It was supposed to be a Muslim charity.

18 Q. Did you come across any letters of similar nature found  
19 at the HLF?

20 A. I did.

21 Q. Do you have HLF Search No. 25 before you?

22 A. I do.

23 Q. And where was this letter found?

24 A. This was found in the office of the Defendant Abdulrahman  
25 Odeh.

1 Q. Where was that office again?

2 A. In New Jersey.

3 Q. That is an HLF office?

4 A. That is correct.

5 Q. What is the date of the letter?

6 A. It is dated November 28, 1996.

7 Q. Is that after Hamas is designated as a terrorist  
8 organization?

9 A. Yes.

10 MR. JONAS: Your Honor, at this time I would offer  
11 into evidence HLF Search No. 25.

12 MR. WESTFALL: No objection, Your Honor.

13 THE COURT: Admitted.

14 MR. JONAS: If we can put the letter on the screen,  
15 the first page.

16 Q. (BY MR. JONAS) And what is that? That is the envelope,  
17 Agent Burns?

18 A. That is the envelope that the letter was sent in.

19 Q. So the envelope was found with the letter at HLF?

20 A. Yes, at the HLF New Jersey office.

21 Q. This letter is in English?

22 A. That is correct. This is the original.

23 Q. It is not a translation by the FBI?

24 A. That is correct.

25 Q. Can you read this letter, please?

1 A. It says, "Salam Alikum.

2 "Enclosed is modest contribution for our people suffering  
3 from Jewish/Christian Western crimes. In s'allah both will be  
4 defeated, slaughtered, and kicked out of Islamic lands. This  
5 is for relief supplies and weapons to crush the hated enemy.  
6 Thank you. Sultan Mahmoud.

7 "P.S. Today the Western criminals celebrate  
8 Thanksgiving. Who once helped their ancestors survive harsh  
9 winter then stole their land and killed most all natives?  
10 Whoever was left was as effective slaves in reservations. The  
11 Islamic Ummah must not let this happen to us. We must destroy  
12 Israel and unite and get nuclear weapons to kill the West if  
13 they attack our member nations of the Ummah. Unity means must  
14 restore Kalafa."

15 Q. Did this individual who wrote this letter send a donation  
16 to the HLF?

17 A. I am sorry?

18 Q. Did this individual who wrote the letter send a donation  
19 to the HLF?

20 A. Yes, he did.

21 Q. Please let me finish the question. Along with the  
22 letter?

23 A. Yes, he did.

24 Q. Okay. Do you have before you HLF Search No. 93?

25 A. I do.

1 Q. What is that document?

2 A. This is a ledger basically for the Holy Land Foundation.

3 MR. JONAS: Your Honor, at this time I would offer  
4 into evidence HLF Search No. 93.

5 MR. WESTFALL: No objection, Your Honor.

6 THE COURT: Admitted.

7 MR. JONAS: Put that on the screen, please.

8 Q. (BY MR. JONAS) And what does this ledger page reflect  
9 with regard to that letter we just read from Sultan Mahmoud?

10 A. It shows on December 4th, 1996 that the payee Sultan  
11 Mahmoud, this is the second entry on the page, and it shows  
12 that he gave a \$25 donation.

13 Q. Was there any indication that the HLF rejected his  
14 donation because of his letter?

15 A. No. This seems to indicate that they accepted it.

16 Q. Okay. The fact that the HLF -- that the letter was found  
17 in the HLF offices six years after it was written -- It I was  
18 written in '95 or '96?

19 A. '96.

20 Q. For five years after it was written, does that indicate  
21 they kept the letter or threw it out?

22 A. They kept it for five years.

23 Q. In response to the letter and the donation, what did the  
24 HLF do?

25 A. I located additional solicitations by the HLF of this

1 donor for additional contributions.

2 Q. Do you have before you what has been marked HLF Search  
3 No. 94?

4 A. I do.

5 Q. And what is that item?

6 A. These were the solicitations from the HLF addressed to  
7 Sultan Mahmoud, the author of that letter.

8 MR. JONAS: Your Honor, at this time I would offer  
9 into evidence HLF Search No. 94.

10 MR. WESTFALL: No objection, Your Honor.

11 THE COURT: Admitted.

12 MR. JONAS: If we can put page 5 on the screen,  
13 please.

14 Q. (BY MR. JONAS) Agent Burns, look at the top. Who is it  
15 addressed to?

16 A. The letter is addressed to Sultan Mahmoud.

17 Q. Where is it addressed to?

18 A. It is addressed to P.O. Box 2115, Paterson, New Jersey.

19 Q. Do you know what P.O. Box 2115, Paterson, New Jersey is?

20 A. That is one of the mailing addresses for the HLF's New  
21 Jersey office.

22 Q. And where was this letter sent from, which HLF office?

23 A. The Holy Land Foundation in Richardson, Texas.

24 Q. So does that mean, then, that the New Jersey office must  
25 have transmitted the donation down to Richardson?

1 A. The original donation, is that what you are discussing?

2 Q. Yes. The \$25 donation.

3 A. Yes.

4 Q. Does this appear to be a form letter?

5 A. It does.

6 Q. Did you come across any evidence that Sultan Mahmoud then  
7 continued to contribute money to the HLF?

8 A. Yes.

9 Q. Do you have before you what has been marked HLF Search  
10 No. 148?

11 A. I need the original of that one.

12 Q. Sure. What is HLF Search No. 148?

13 A. It is a list of donors from March 10, 1998.

14 MR. JONAS: Your Honor, at this time I would offer  
15 into evidence HLF Search No. 148.

16 MR. WESTFALL: Your Honor, may I inquire how many  
17 pages is that?

18 THE WITNESS: It is one page.

19 MR. WESTFALL: No objection, Your Honor.

20 THE COURT: Admitted.

21 MR. JONAS: If we can put that page on the screen,  
22 please.

23 Q. (BY MR. JONAS) Do you see anywhere on this page where  
24 the individual who wrote that letter that was found in the New  
25 Jersey office continued to make contributions to the HLF in



1 response to the donations solicitation?

2 A. The second entry on this chart shows Sultan Mahmoud and  
3 it indicates, if you scroll over to the right, the \$25  
4 donation in 1996 that we discussed in that original letter,  
5 and then it indicates \$95 for the year 1997.

6 Q. Agent Burns, did you come across anything in the body of  
7 materials that you reviewed that indicates that the HLF  
8 rejected this donation from the individual who wrote that  
9 letter?

10 A. No.

11 MR. JONAS: Your Honor, at this time I am at a good  
12 breaking point if you want to break for lunch.

13 THE COURT: Let's take the lunch break. Be back at  
14 a quarter till.

15 And let me just say one thing to the members of the jury,  
16 to remind you, of course, not to discuss the case with anyone.  
17 And be sure when you are here that you wear these tags that  
18 you are given so when you are in the hall people know that you  
19 are a juror and they should stay away from you. You should  
20 stay away from you. Of course, you should stay away from  
21 anyone that is connected in this case. And no one should be  
22 talking to you about this case. If anyone should try to talk  
23 to you about this case in any way, you should report that to  
24 me immediately.

25 (Whereupon, the jury left the courtroom.)

1                   THE COURT: All right. We will be in recess until  
2 1:45.

3                                   (Lunch recess.)

4                   THE COURT: Mr. Jonas?

5                   MR. JONAS: Yes, sir. Thank you.

6 Q. (BY MR. JONAS) Agent Burns, in addition to the  
7 videotapes we have seen of the Defendant Mohammad El-Mezain  
8 raising funds, and that one we saw the other day where someone  
9 was spray painting Hamas on the wall, did you see any Hamas  
10 communiques being sent to the Defendant Mohammad El-Mezain?

11 A. I did.

12 Q. And where did those communiques come from? In other  
13 words, who was the sender?

14 A. Generally the IAP.

15 Q. Did you see any documents that indicate that the IAP  
16 would be the one sending out these communiques?

17 A. Yes. As we have seen Shukri Abu Baker's letter before we  
18 broke for lunch when the lady from Saudi Arabia was requesting  
19 Hamas books and statements, Shukri Abu Baker responded and in  
20 his reply said the IAP was the one responsible for sending  
21 those things.

22 Q. Okay. Do you also have before you InfoCom Search No. 72?

23 A. I do.

24 Q. And what is that document?

25 A. This is a grant request from the Islamic Association for

1 Palestine to the HLF.

2 Q. Where was this found?

3 A. At InfoCom.

4 Q. Does this item reference communiques being sent out by  
5 IAP?

6 A. It does.

7 MR. JONAS: Your Honor, at this time I would offer  
8 into evidence InfoCom Search No. 72.

9 THE COURT: Objection? That is admitted.

10 MR. JONAS: If we can get page 3 on the screen,  
11 please.

12 Q. (BY MR. JONAS) Do you see the middle of the page, Agent  
13 Burns, where it says "daily fax report"?

14 A. I do.

15 Q. If you can just read that one paragraph?

16 A. It says, "IAP is keeping the readership well-informed of  
17 the situation in the occupied territories and daily basis  
18 through a fax network that covers 80 recipients at a monthly  
19 cost of \$500. Due to many requests from individuals to be  
20 added to the list, we wish to accommodate about 50 more  
21 institutions and individuals, who like others will pay certain  
22 monthly fees."

23 Q. Was the FBI intercepting or getting copies of faxes sent  
24 to the Defendant Mohammad El-Mezain?

25 A. At some point in 1994 they did begin to monitor some of

1     Mohammad El-Mezain's phone lines, including a fax line.

2     Q.    Was this part of the intelligence investigation into him?

3     A.    It was.

4     Q.    And was the monitoring of the phone and fax lines  
5     pursuant to a court order?

6     A.    It was.

7     Q.    Was this the FISA that we talked about earlier?

8     A.    That is correct.  It was a FISA court order.

9     Q.    Okay.  Did you compile some of the El-Mezain faxes that  
10    the FBI received into one exhibit?

11    A.    Yes.

12    Q.    Do you have before you what is marked as El-Mezain  
13    Wiretap No. 1?

14    A.    I do.

15    Q.    What is that?

16    A.    This is a collection of faxes that the Defendant Mohammad  
17    El-Mezain received that were captured by the FBI's monitoring  
18    of his fax line.

19    Q.    Were these all the faxes that he received that the FBI  
20    monitored?

21    A.    Oh, no.

22    Q.    Do these faxes have something in common?

23    A.    Yes.

24    Q.    What is that?

25    A.    They generally relate to Hamas, the HLF matters that we

1 have been discussing in this case.

2 MR. JONAS: Your Honor, at this time I would offer  
3 into evidence El-Mezain Wiretap No. 1?

4 MR. DRATEL: Your Honor, just --

5 THE COURT: Subject to the previous objections? All  
6 right. Those have been overruled. El-Mezain Wiretap No. 1 is  
7 admitted.

8 Q. (BY MR. JONAS) Agent Burns, do you see what I am holding  
9 up? It is a binder.

10 A. I do.

11 Q. Do you recognize this as El-Mezain Wiretap No. 1?

12 A. I do.

13 Q. We put a sleeve in there that says El-Mezain faxes. Is  
14 that correct?

15 A. That is correct.

16 Q. Can you just briefly describe how the binder is divided.  
17 And I can hand it to you, if you prefer.

18 A. My copy is not divided, so if you want to that would be  
19 great.

20 MR. JONAS: If I may approach, Your Honor?

21 THE COURT: Yes.

22 THE WITNESS: Okay. Basically the faxes that we  
23 have in this exhibit are organized by date, and they are  
24 separated with little tabs that indicate the date.

25 Q. (BY MR. JONAS) Okay. If I may retrieve that.

1 A. Okay.

2 Q. Can you approximate the number of faxes you put in here?

3 A. I can't recall the exact number. There are about 182  
4 pages, but those include the faxes themselves and the  
5 translations of the faxes, as a majority of them, if not all,  
6 were in Arabic.

7 Q. Do you recall the time frame that the faxes are contained  
8 in this exhibit?

9 A. 1994 and 1995, I believe; maybe some from '96.

10 Q. We aren't going to go through every one, but I want to go  
11 through a few with you.

12 MR. JONAS: If we can put page 27 on the screen,  
13 please. And if we -- Let's go back to page 25 for a moment  
14 just so we can see.

15 Q. (BY MR. JONAS) Agent Burns, is this what the faxes  
16 looked like?

17 A. Yes.

18 Q. Do they all look like this?

19 A. Most of them.

20 Q. Most of them. And do you know --

21 MR. JONAS: If we can go to page 27 now.

22 Q. (BY MR. JONAS) What is the date of this particular one?

23 A. Well, there are several dates on there. The report is  
24 from Monday October 10th, 1994.

25 Q. What is the information contained above where it says

1 "the report"?

2 A. It has a sent by Xerox with a telecopier date and time  
3 stamp, a telephone number for the IAP information office, and  
4 there is another date and time stamp. It is my understanding  
5 that the fax machine that was originally collecting these  
6 faxes had incorrect dates so that the date printed out by the  
7 actual fax machine was sometimes incorrect. So when possible  
8 we rely on the printed date on the document itself, October  
9 10th, 1994.

10 Q. The fax machine you are referring to, would that be the  
11 FBI fax machine or the El-Mezain fax machine?

12 A. It was my understanding that it was the Defendant  
13 El-Mezain's fax machine that sometimes printed the wrong date.

14 Q. Did the FBI put this information on the top, this fax  
15 information?

16 A. That information is on the original.

17 Q. Are you up for doing some reading?

18 A. I am.

19 Q. Okay. Can you read us at least the first page and a half  
20 and the title of this report?

21 A. Okay. And again, this is an IAP information office  
22 report dated October 10th, 1994, and it is entitled "A special  
23 report about the jihadist heroic operation in the midst of the  
24 city of West Jerusalem.

25 "Sources of the occupation police said that the armed

1     attack which took place shortly before midnight last night in  
2     the west side of Jerusalem resulted in the death of 2 and  
3     injury of 16 others, according to initial statistics, and  
4     mentioned that four of the injured are still in critical  
5     condition. According to occupation authority sources, the  
6     attack took place when two armed individuals in black  
7     uniforms, one wearing a redhead band, opened automatic gunfire  
8     and threw hand grenades towards restaurant patrons and coffee  
9     shop customers and Zionist by-passers in the neighborhood of  
10    Nalat Shaffa'a adjacent to Jaffa Street which is the  
11    commercial street in the midst of the west part of Jerusalem.  
12    The attack took place around 11:30 p.m. last night. There  
13    were conflicting news reports about the number of the injured  
14    and the dead resulting from the attack which was carried by  
15    two suicide at attackers from Al-Qassam Brigades, Hamas'  
16    military wing, according to the enemy's radio which said that  
17    an unknown person called them and announced Al-Qassam Brigades  
18    responsibility for the attack. The unknown caller emphasized  
19    this attack was carried out on the fifth anniversary of  
20    al-Aqsa mosque massacre, which took the lives of tens of  
21    Palestinians. Ha'aretz newspaper said today that 20 Israelis  
22    were injured during the attack while two people were killed,  
23    one of whom is an Israeli recruit called Lisyan Levy from the  
24    Beit Zayet settlement located in the area of Bab El-Wad, which  
25    is the western entrance of Jerusalem. Israel sources



1 indicated that the two armed fighters were martyred during a  
2 forty-minute fight with members of special units of the  
3 Zionist's entities border guard and police. At 11:30 p.m. the  
4 two armed fighters had arrived to car by a street near Jaffa  
5 Street and the Government press office. They were armed with  
6 automatic Kalashenkoff machine guns, about eight hand  
7 grenades, and many ammunition magazines. They got down and  
8 walked towards a paved road in Nahlat Shaba'a, Yomal Moshe  
9 Slomon Street where there are many restaurants and coffee  
10 shops that were crowded with customers at the time.

11 Eyewitnesses said that the two armed men approached the place  
12 of the attack from the Ma'man Allah cemetery, and they  
13 immediately started to fire at hundreds of by-passers and  
14 restaurant and coffee shop customers. They were emptying the  
15 ammunition magazines and replenishing them one after another  
16 until police and border guards arrived on site, at which time  
17 a very intense firefight broke out between the two sides which  
18 resulted in the martyrdom of the two attackers. Sources of  
19 the enemy's police said that the identities of the two armed  
20 fighters were known to them and that they were not wanted by  
21 the security force, noting that they came from the Gaza  
22 Strip."

23 Q. Agent Burns, let me interrupt you. In the context of  
24 this article that you are reading, this report that you are  
25 reading when it says the enemy's police, who would be the

1 enemy?

2 A. According to the IAP, the enemy would be the state of  
3 Israel.

4 Q. Okay. Continue.

5 A. "Sources of the enemy's police said" -- Excuse me.

6 "Evacuation of the wounded and searching the site continued  
7 until 3:30 a.m. today where the accident site was closed. A  
8 helicopter and a large number of police force and border  
9 guards joined the search operations looking for other armed  
10 men believed to have participated in the attack. Eyewitnesses  
11 Yehdiot Ahronot"--excuse my pronunciation--"newspaper  
12 described what happened last night as, 'real hell,' where  
13 Jerusalem's commercial district was turned to a fighting zone.  
14 It added that a state of fear and terror prevailed the  
15 situation and that the restaurant and coffee shop patrons in  
16 the area acted in a completely hysterical manner as they were  
17 running in horror and stampeding each other inside the  
18 restaurant and coffee shops' halls and kitchens where they  
19 took refuge while facing the two attackers' hail of bullets.  
20 In his report during the morning news from an accident report,  
21 an enemy TV reporter said that the psychological and mental  
22 damage caused by the attack greatly exceeds the bodily harm  
23 resulting from it. Al-Qassam Brigades said in their statement  
24 that two martyrdom-seekers had stormed all the Zionist  
25 security barricades and reached Jaffa Street in the heart of

1 the occupied city of Jerusalem and opened fire on a huge  
2 number of soldiers and Zionist settlers. One of our heroes  
3 then threw several hand grenades which resulted in killing and  
4 injuring tens in enemy lines. This heroic battle which lasted  
5 forty minutes coincides with the commemoration of al-Aqsa  
6 massacre which was carried out by Zionist soldiers following a  
7 careful planning by Rabin's terrorist government. What we  
8 want to stress in this statement is the following:

9 "First: The armed resistance on Palestinian soil will  
10 continue on the soil of Palestine until the despised  
11 occupation is completely driven away from every grain of sand  
12 in the land of Palestine. Our daring armed operations will  
13 not stop as long as there is one Zionist soldier remaining on  
14 our occupied land.

15 "Second: Heavenly religions, international protocols,  
16 and sound and national logic grants every Palestinian the  
17 right to resist Israeli occupation of our Palestinian land  
18 until we free every yard of our homeland. All calls for  
19 weakness and defeat which are repeated here and there will be  
20 trodden under our feet and we will offer blood and sweat as a  
21 price for Palestine and dowry for its pure soil.

22 "Third: Rabin's terrorist government which plans day and  
23 night to annihilate our people and to annihilate the Muslim  
24 nation, this government will be the first to pay the price and  
25 the first to be burnt with al-Qassam's fire and Hamas' holy

1 flames.

2 "The statement added that, with all pride and  
3 appreciation, we bring to you the glad tidings about the two  
4 martyrs of Ezz Eddin al-Qassam Brigades, hero Hassan Abbas  
5 from Hashem's Gaza, and martyr Issam Mahni Ismail al-Johari  
6 from Egypt, the Quiver. We pledge our righteous martyrs that  
7 we will remain truthful to their righteous blood and that we  
8 will draw a quiet smile on the map of Palestine with the  
9 openings of our rifles. That is not too hard for Almighty God  
10 to do. Palestinian sources said martyr Issam Mahni Ismail  
11 al-Johari, who was martyred during the attack on Jerusalem  
12 last night is an Egyptian citizen born in 1975 and he came to  
13 the Gaza Sector under the pretext of tourism on 14 June, 1994.  
14 Sources said that during his presence in the Gaza Sector  
15 al-Johari made attempts to contact the Hamas movement where he  
16 told officials in it that he came to martyr on the land of  
17 steadfastness, and that he studied the site where the  
18 operation was carried out and planned for it in coordination  
19 with Hassan Mahmoud Issa Abbas who participated in the attack  
20 with al-Johari and martyred during it. Palestinian sources  
21 said that al-Johari entered Gaza legally using his Egyptian  
22 passport No. 360595 issued by Shoubra al-Khima passport  
23 office. Sources said that al-Johari was a soldier in the  
24 Egyptian army before his service was terminated due to his  
25 activity in the Islamic group which is opposed to the Egyptian

1 government. Al-Johari is considered the first Egyptian martyr  
2 to take part in the Islamic resistance operations inside the  
3 occupied territories since the start of the Palestinian  
4 Intifada in the year 1987. Israeli security sources say that  
5 al-Johari is a member of Ein Jalout which came over from Egypt  
6 and that he was working as a guard in the offices of the  
7 Palestinian Authority in the Gaza Sector. Security circles do  
8 not overrule the possibility that al-Johari procured the  
9 weapon used in yesterday's attack from the Palestinian police,  
10 according to the information of the occupation's radio. On  
11 the other hand, Israeli sources said that the second martyr  
12 Hassan Abbas is from al-Daraj district in Gaza City, and he  
13 was arrested before by the Israeli security police for  
14 allegedly providing aid to al-Qassam Brigades where he worked  
15 as a driver for martyr Imad Akel, the Brigades' leader in the  
16 sector who was martyred last November by the bullets of the  
17 occupation soldiers."

18 Q. Agent Burns, just remind us, how did this report entitled  
19 describe this attack?

20 A. "Heroic."

21 Q. If you can turn to the next communique that is dated  
22 October 12th, 1994, specifically page 32. I don't think you  
23 need to read the whole thing, but I want you to read the first  
24 paragraph; the title, the date, and the first paragraph?

25 A. Okay. Again this is a translation. The title is "a

1 special report about the kidnapping of a Zionist soldier by  
2 the Hamas movement." And just to note, if you look at the  
3 original of this document, and we don't have to turn there,  
4 but I just wanted to point out that when you say Hamas in  
5 parentheses here it is in parentheses in the original.

6 MR. JONAS: Page 30.

7 THE WITNESS: I just wanted to note that that was  
8 not something that was added by the FBI. If you look up here  
9 where it says -- You can see the title in Arabic there and at  
10 the end there is the parentheses and a word in Arabic. That  
11 is what I am talking about.

12 MR. JONAS: Okay. Back to page 32.

13 Q. (BY MR. JONAS) Just read the first paragraph, please?

14 A. "The Islamic Resistance Movement, Hamas, called upon the  
15 enemy's government in the Zionist entity to release  
16 Palestinian and Arab prisoners detained by the occupation  
17 forces in exchange for the release of an Israeli soldier it  
18 said it is detaining. A statement issued by the martyr Izz  
19 al-Din al-Qassam Brigades, Hamas military arm, said that the  
20 soldier Nehson Mordecai Faxman, who carries I.D. number"--and  
21 I won't read that--"is detained by the Movement after being  
22 kidnapped by its fighters. It promised to release him if the  
23 occupation authorities agree on a number of its demands. In  
24 its handwritten statement, the Movement demanded an immediate  
25 and quick release of the head of the Islamic Resistance

1 Movement, Hamas, Sheik Ahmad Yasin, founder of the former  
2 military apparatus of the Hamas movement, Sheik Salah Shehata,  
3 Sheik Abdul Karim Ebeid, and Sheik Mustafa Dirani, both of  
4 whom are leaders of a Lebanese-based Hezbollah organization.  
5 The Movement also demanded the release of al-Qassam Brigades  
6 detainees. Among the conditions listed in the Movement's  
7 release is the demand that the occupation authorities release  
8 180 Palestinian detainees distributed as follows."

9 Q. That is fine. Does the rest of this communique discuss  
10 the kidnapping of the soldiers?

11 A. It does.

12 Q. Okay.

13 MR. JONAS: If we can put up demonstrative 14, the  
14 first page.

15 Q. (BY MR. JONAS) Agent Burns, do you see this event  
16 timeline that Doctor Levitt discussed?

17 A. I do.

18 Q. Do you see the highlighted one, highlighted incident?

19 A. Yes.

20 Q. Is that kidnapping on October 9th, 1994, the IDF, the  
21 Israeli Defense Forces soldier, the same kidnapping that is  
22 discussed in this communique received by the Defendant  
23 Mohammad El-Mezain?

24 A. It is. There is a difference in the spelling of the  
25 names, because his name was translated from Hebrew into

1 English, so there is a variation. But based on the context,  
2 you can determine that it is the same individual.

3 Q. Agent Burns, I want to turn to page 37. What is the date  
4 of this one?

5 A. October 15th, 1994.

6 Q. What is the title?

7 A. "Heroes of al-Qassam were victorious from the security,  
8 military, and behavioral aspects."

9 Q. If you can read just that first paragraph.

10 A. "Just as the beginning of operation of our heroes in  
11 which they detained the Zionist soldier Faxman was heroic and  
12 superb, so was the final outcome with similar heroism and  
13 superbness, and contrary to what Zionist war general Rabin had  
14 wished and planned for. It ended in a way contrary to all  
15 similar operations which encouraged the general to repeat the  
16 method. This method, which he will change forcibly under the  
17 heavy blows of al-Qassam, Salah Jadallah, Taysir Al-Natashah  
18 Abdel, Abdul-Karim Badr, our al-Qassam heroes, wrote the end  
19 with their blood and smeared it with general Rabin's forehead  
20 and all of those who surrender."

21 Q. Does the rest of this communique go on and talk about  
22 these actions as well?

23 A. It does.

24 Q. Okay. Does this communique identify several individuals  
25 as Hamas members? Do you see that?



1 A. I do.

2 Q. It says Sheikh Ahmed Yassin, and we have seen his name  
3 multiple times throughout the course of your testimony. Is  
4 that correct?

5 A. That is correct.

6 Q. And Sheikh Raed Salah, do you recognize that name as  
7 well?

8 A. I do.

9 Q. Do you know if he is connected with any particular  
10 organization?

11 A. He is connected with a relief organization, the Islamic  
12 Relief Committee. In addition, we saw in the videotapes that  
13 we played just before lunch, Mohammad El-Mezain was talking  
14 about a prisoners project that was presented by Raed Salah.  
15 That was this man.

16 Q. Which committee is he affiliated with?

17 A. The Islamic Relief Committee.

18 Q. Is that a committee that you already discussed with your  
19 financial schedules as the HLF giving money to?

20 A. Yes.

21 Q. If you go down on this sheet near the bottom half, do you  
22 see where it says, "The Hamas movement accused the Arafat  
23 authority," and you see it says Dr. Mahmoud Al-Zahar?

24 A. Yes.

25 Q. Okay. Let me show you Demonstrative No. 17. Do we see

1 Mahmoud Zahar in this chart anywhere?

2 A. We do. He is the one closest to you there on the second  
3 row.

4 Q. Where I am pointing?

5 A. That is correct.

6 Q. Does this communique identify him as affiliated with any  
7 particular organization?

8 A. It identifies him as being involved with Hamas.

9 Q. Have we seen him somewhere else in this case already?

10 A. We have seen him in several different places, most  
11 notably in the video from 1990 in Los Angeles where Mohammad  
12 El-Mezain was seated next to him in the audience, and at the  
13 end of the tape Shukri Abu Baker thanked the Mujahideen who  
14 had traveled to be with them, or the guests, and Doctor Zahar  
15 was one of them.

16 Q. Okay. Are you aware if Doctor Zahar raised any funds for  
17 the HLF?

18 A. He was listed as a fundraiser, yes.

19 Q. Do you have before you what has been marked as HLF Search  
20 No. 87?

21 A. I don't have the original of that one.

22 MR. JONAS: May I approach, Your Honor?

23 THE COURT: Yes.

24 Q. (BY MR. JONAS) Now do you have HLF Search No. 87?

25 A. I do.

1 Q. What is that document?

2 A. This is a list of overseas speakers for the HLF.

3 Q. Where was that taken from?

4 A. It was taken from an HLF computer.

5 THE COURT: Your Honor, at this time I would offer  
6 into evidence HLF Search No. 87.

7 MS. HOLLANDER: Your Honor, this is not one that was  
8 on the list, so we haven't really discussed it. Assuming it  
9 is accurate, we have no objection.

10 MR. JONAS: I mentioned to Ms. Hollander this  
11 morning that I would be showing Agent Burns this document.

12 THE COURT: All right. Admitted.

13 Q. (BY MR. JONAS) Agent Burns, is there an enlargement of  
14 this document that was created?

15 A. There was.

16 Q. Is this that enlargement that I am holding up?

17 A. It is.

18 MR. JONAS: Your Honor, for the record I will put  
19 this on the easel.

20 Q. (BY MR. JONAS) Agent Burns, per the Holy Land Foundation  
21 computer where this was printed off of, that the FBI found it  
22 on, what date was this document created?

23 A. July of 1999.

24 Q. And what date does this communicate that was sent to the  
25 Defendant Mohammad El-Mezain identifying Mahmoud Zahar as a

1 member of Hamas?

2 A. This was 1994.

3 Q. Five years before this overseas speakers list was  
4 created?

5 A. That is correct.

6 Q. On this overseas speakers list, do you see Mahmoud  
7 Zahar's name anywhere?

8 A. I do.

9 Q. What number would that be. You have the original there.

10 A. I don't think the original -- The original is not  
11 numbered. That is what I was looking for.

12 Q. So the numbers were added by the FBI?

13 A. Yes, that is correct. No. 41.

14 Q. No. 41.

15 Agent Burns, I want you to turn on El-Mezain Wiretap  
16 No. 1 to page 57, please.

17 A. I have it.

18 Q. What is the date of this report, this communique?

19 A. November 10th, 1994.

20 Q. And if you can turn to the second paragraph on this same  
21 page. The other paragraphs are noted with a dot next to them  
22 on the left. The second middle paragraph, if you can just  
23 read that paragraph?

24 A. It says, "Israeli sources reported new and sensitive  
25 information about the bus bombing operation which took place

1 in the Dizengoff Square in the midst of the commercial area in  
2 the city of Tel Aviv last month whose responsibility was  
3 claimed by the Hamas movement. Member of Israeli Parliament,  
4 Dayla Yitzhak from the Likud Bloc said that the initial  
5 information indicated that parts of the explosive material  
6 which disappeared in the mysterious circumstances from an  
7 ammunition warehouse of the occupation army in a training camp  
8 in the al-Nabi Mousa area near Jericho were used in the  
9 bombing operation that took place in bus number 5 in the heart  
10 of Tel Aviv. Yitzhak questioned the reasons behind ignoring  
11 the results of the investigation conducted by the Israeli  
12 military police into the case of the disappearance of  
13 ammunition and explosives from the military camp at the  
14 al-Nabi Mousa which occurred last July and August. Deputy  
15 Minister of Defense of the Zionist entity said it has not  
16 confirmed that the explosives and the materials that  
17 disappeared from the camp have reached the hands of Al-Qassam  
18 cells, but he added saying, 'It is difficult to know that.'

19 Q. Okay. Thank you, Agent Burns.

20 I want to move on to another one. Page 60.

21 A. Okay.

22 Q. What is the date of this one?

23 A. November 13th, 1994.

24 Q. If we can read the top paragraph of this one, please.

25 A. "An authorized Palestinian source said that a delegation

1 from the Hamas movement started an official visit to the  
2 Syrian capital of Damascus yesterday where it will meet with  
3 ranking Syrian officials and a number of leaders from the  
4 Palestinian opposition. The source reported that the  
5 delegation includes the head of the Movement's political  
6 office, Mousa Abu-Marzouk, and the official spokesman,  
7 engineer Ibrahim Ghosheh. The delegation is scheduled to meet  
8 with Syrian Vice President Abd al-Halim Khaddam, and Assistant  
9 Secretary General of the Ba'ath Arab Communist Party Abdullah  
10 al-Ahmar. In addition, Abu-Marzouk And Ghosheh will attend  
11 the meetings of the leaders of the coalition of the ten  
12 opposition factions."

13 Q. This document identifies the head of the Movement. What  
14 is the Movement?

15 A. The Islamic Resistance Movement, Hamas.

16 Q. Okay. Identifies Mousa Abu Marzook.

17 A. That is correct.

18 Q. Is that the same Mousa Abu Marzook that you testified  
19 about extensively the past several days?

20 A. That is the same individual.

21 Q. And it identifies the official spokesman, engineer  
22 Ibrahim Ghousheh. Have we seen his name in this case?

23 A. Yes, we have.

24 Q. And is he on Demonstrative No. 17, this picture?

25 A. He is in the very center on the second row.

1 Q. Do you recall --

2 MR. JONAS: If we can put Hamas letter 1 on the  
3 screen real quick.

4 Q. (BY MR. JONAS) Do you recognize this letter, Agent  
5 Burns?

6 A. I do.

7 Q. This is in evidence already, but just remind us what this  
8 is.

9 A. This is a letter from Hamas to the Senate Judiciary  
10 Committee regarding the detention by the U.S. government of  
11 Mousa Abu Marzook, and it is signed Ibrahim Ghousheh, the  
12 Hamas spokesman.

13 Q. That is consistent with the communique that we just  
14 looked at?

15 A. That is correct.

16 MR. JONAS: If we can go back to El-Mezain Wiretap  
17 No. 1 and I want to jump to page 123.

18 THE WITNESS: Okay.

19 Q. (BY MR. JONAS) What is the date of this report?

20 A. January 22nd, 1995.

21 Q. What is it entitled?

22 A. "A special report about the heroic operation on the  
23 intersection of Beit Lod.

24 Q. Just read for us the first paragraph, please.

25 A. "Zionist sources mentioned that a big explosion occurred

1 around 9:30 this morning at the Beit Lod intersection inside  
2 the green line near Tulkarm. The explosion resulted in no  
3 less than 18 dead and 62 wounded. Identical Zionist sources  
4 said that the explosion which occurred this morning was the  
5 result of the exploding a booby-trapped white car model Fiat  
6 which was near the bus station and that the explosion was  
7 followed by another one near the station restaurant which  
8 doubled the injuries. According to the count, the majority of  
9 those killed are male and female recruits who were on their  
10 way to their barracks and posts in the West Bank and the  
11 Zionist entity."

12 MR. JONAS: If we can pull up Demonstrative No. 14,  
13 the second page.

14 Q. (BY MR. JONAS) Agent Burns, do you see on this event  
15 timeline of Hamas attacks the bombing you just described in  
16 the communique referenced anywhere?

17 A. I do.

18 Q. Where is that?

19 A. It is referenced in the one that is highlighted, January  
20 22nd, 1995.

21 Q. It discusses the Beit Lod double bombing?

22 A. It does, although the communique we were just addressing  
23 notes that Hamas also claimed responsibility for the attack.

24 Q. Is this the one where there was a joint responsibility  
25 claimed?



1 A. That is correct.

2 Q. Did the FBI intercept any phone calls involving any of  
3 the Defendants where they discussed this bombing?

4 A. Yes.

5 Q. Who was on that call? Who were the participants?

6 A. Mohammad El-Mezain and Abdulrahman Odeh.

7 Q. Do you have before you El-Mezain Wiretap No. 27?

8 A. I do.

9 Q. I am sorry. Not 27; No. 4. I got the number wrong.

10 A. I do.

11 Q. Okay. Is that the phone call you referenced?

12 A. Yes.

13 Q. What is the date of the call?

14 A. The same date as that fax as the suicide bombing, January  
15 22nd, 1995.

16 MR. JONAS: Your Honor, at this time I would offer  
17 into evidence El-Mezain Wiretap No. 4.

18 MR. DRATEL: Your Honor, same objection as  
19 previously made.

20 THE COURT: Have been overruled and -- Are you also  
21 offering 4-A?

22 MR. JONAS: Yes, No. 4 and 4-A.

23 THE COURT: Admitted.

24 MR. JONAS: If we can play that call, please.

25 (Whereupon, El-Mezain Wiretap No. 4 was played,

1 while questions were propounded.)

2 Q. (BY MR. JONAS) Can you first identify who AB and UM are?

3 A. AB is the Defendant Abdulrahman Odeh. Unknown male is  
4 someone who answered the phone, who apparently is a child of  
5 the Defendant Mohammad El-Mezain.

6 Q. Agent Burns, what was happening right around that time  
7 with Hamas with regard to the U.S. government?

8 A. Shortly after this suicide bombing, the United States  
9 designated Hamas as a terrorist organization.

10 Q. Right after the designation, was there another call  
11 between the Defendant Odeh and El-Mezain where they discussed  
12 concealment of some of the HLF money?

13 A. Yes.

14 Q. Do you have before you what has been marked as El-Mezain  
15 Wiretap No. 27?

16 A. I do.

17 Q. And who is on that call?

18 A. Mohammad El-Mezain and Abdulrahman Odeh.

19 Q. What is the date of the call?

20 A. February 27th, 1995.

21 Q. How soon after -- I got the exhibit number wrong.

22 No. 12. Sorry. My mistake. El-Mezain Wiretap No. 12, which  
23 may be the same call you are referring to.

24 A. Okay. It is labeled here No. 27. So if No. 27 is now  
25 No. 12, then I have it.

1 Q. Yes, No. 12. I am sorry. My last question to you I  
2 believe, you said who the participants were. The date of the  
3 call was?

4 A. The date of the call was February 27th, 1995.

5 MR. JONAS: Your Honor, at this time I would offer  
6 into evidence El-Mezain Wiretap No. 12 wand 12-A.

7 MR. DRATEL: Your Honor, we have to approach on this  
8 one.

9 THE COURT: All right.

10 (The following was had outside the hearing of the  
11 jury.)

12 MR. DRATEL: This is the call having to do with --

13 THE COURT: With the money laundering?

14 MR. DRATEL: Yes. And the Court had not ruled on  
15 that as of -- You were going to look at it.

16 THE COURT: Remind me of the issue.

17 MR. DRATEL: The issue, it is really threefold. One  
18 is Mr. El-Mezain was acquitted on the money laundering counts,  
19 so in that context this is really double jeopardy as well as  
20 collateral estoppel. But, I mean, there is no argument that  
21 he can be part of a money laundering conspiracy at any time  
22 because he was acquitted of all those charges.

23 Second is, it really is a prejudicial variance as well  
24 because it gives the Government an opportunity to argue  
25 something about money laundering that is not part of the money

1     laundering charges in the indictment. The specific money  
2     laundering is the payments from Holy Land to the zakat  
3     committees, not the structuring, not deposits, not where the  
4     contributions are coming from. It is where the contributions  
5     are going to. So I think that would be a prejudicial  
6     variance.

7             Also it is 403 around all of that as well. And it really  
8     doesn't even make structuring because structuring has to be  
9     illegal. I mean, you have to know it is illegal. It is a  
10    willful -- *Ratzlaf* is the Supreme Court case from '95 that  
11    establishes that you have to have an illegal purpose to  
12    structure, and here this conversation doesn't give any of  
13    that, so it really is a 403, the unfair prejudicial value  
14    substantially outweighs any probative value.

15            MR. WESTFALL: I join in that objection; not only  
16    the same double jeopardy issues, but on the issue, the fact  
17    that it is, you know, it is not an indictment count. It is  
18    not stated in the indictment anywhere. And it is a serious  
19    403 issue, particularly if they intend to refer to it as  
20    structuring and have her opine about structuring and all of  
21    that, which I think would very much compound the harm under  
22    403, rather than just lay the fact out.

23            Saying that this was structuring, drug dealers do this,  
24    or whatever she may be ready to talk about, I think would,  
25    just like I said, exponentially compound the harm. I don't

1 know what they intend to do.

2 MS. HOLLANDER: I will wait.

3 THE COURT: I think it involves these two. Of  
4 course, it can apply.

5 MS. CADEDDU: Once again, this is something that I  
6 would request a limiting instruction on.

7 MS. HOLLANDER: Yes, I would, too, and a  
8 contemporaneous limiting instruction, if this is going to come  
9 in. It has nothing to do with my client.

10 MR. JONAS: This has nothing to do with the money  
11 laundering charges as charged. Okay? What this really is is  
12 about a month after Hamas is designated, the Defendants Odeh  
13 and El-Mezain talk about cash that Odeh has, HLF cash he has  
14 raised that he has, and El-Mezain tells him to structure it --  
15 He doesn't use that term, but he talks about there is a form  
16 that will be filled out, and they talk about their bank  
17 accounts being watched.

18 So our position is this is part of the whole concealment  
19 of the conspiracy. This is all part of that. Hamas has just  
20 been designated. They know they are being watched. He tells  
21 them not to put all the money in at once because a form is  
22 going to be filled out. So it goes to --

23 THE COURT: To knowledge and intent.

24 MR. JONAS: Knowledge, state of mind, intent, all of  
25 that.

1 MR. DRATEL: Mr. El-Mezain was acquitted of that  
2 conspiracy. This is collateral estoppel. They can't start  
3 proving a conspiracy that he was acquitted on.

4 THE COURT: But as I understand, it is not just the  
5 money laundering conspiracy, but --

6 MR. DRATEL: But he was acquitted of that  
7 conspiracy, the '95 conspiracy, too.

8 THE COURT: But Mr. Odeh --

9 MR. DRATEL: Then I would ask for a limiting  
10 instruction that it not be considered against Mr. El-Mezain.

11 MR. JONAS: I think it also goes to intent.

12 THE COURT: That is what I was getting at. He is  
13 arguing that it goes to the bigger conspiracy; not just the  
14 money laundering, but the bigger conspiracy of Hamas.

15 MR. DRATEL: I understand. But the whole joint  
16 venture issue as to why something before it is illegal for Mr.  
17 El-Mezain doesn't apply here because they are already alleging  
18 there is a conspiracy. It is not an illegal joint venture.  
19 This is between '95 and '97.

20 THE COURT: We will deal with the limiting  
21 instructions later. I think it comes in. Certainly it comes  
22 in as to Mr. Odeh. He is offering it for a broader purpose,  
23 for the broader conspiracy, and I think it goes to that as  
24 well because it is right after the designation to show  
25 knowledge. That is their spin on it. Of course, you can

1     argue whatever you want to, but I think that is ultimately up  
2     to the jury.

3             MR. DRATEL:   Well, I can't argue --

4             THE COURT:   Well, everybody.

5             MR. DRATEL:   Also, Your Honor, I just have some  
6     concern about leaving limiting instructions to the point where  
7     they don't have an impact because they are too late in the  
8     case and the evidence has come in and the jury has been  
9     assimilating it in a way without proper direction from the  
10    Court.

11            THE COURT:   I am just not ready to give those  
12    limiting instructions because I have to make the  
13    determinations of the conspiracy and furtherance of and the  
14    course and scope.  I understand this is a joint venture, but  
15    it is the same rules.  So I am just not ready to give those  
16    limiting instructions.

17            MR. DRATEL:   But you understand what I am saying is  
18    the joint venture won't apply to this period of time where  
19    they say there is already a conspiracy because Mr. El-Mezain,  
20    he is just not part of it.

21            THE COURT:   Yes, I understand your argument.

22            MR. WESTFALL:  How far do you intend to go with it?

23            MR. JONAS:   I will tell you exactly.  We are going  
24    to play the call, I was going to ask her if she knows what  
25    structuring is -- Let me rephrase that.  I am going to ask

1 Your Honor if you can maybe even instruct the jury not what  
2 structuring is, but if in fact more than \$10,000 is deposited  
3 into an account at one time, that a form is required to be  
4 filed with the U.S. government. I think either she or Your  
5 Honor can tell it to the jury. And then I was going to show  
6 her the fact that we have a certified document that shows that  
7 no form was filed with regard to this transaction.

8 THE COURT: So you are not getting into the fact  
9 that it is criminal; just that a form is required and that no  
10 form was filed.

11 MR. JONAS: Correct. If Your Honor even just wants  
12 to just let the jury know --

13 MR. WESTFALL: We can stipulate that cash deposits  
14 over \$10,000 require a form to be filled out.

15 THE COURT: Or you can get her to testify and then  
16 you can stipulate to it.

17 MR. WESTFALL: We will stipulate to that.

18 MR. DRATEL: That there is a requirement.

19 MR. JONAS: Do you want me to ask her, or just --

20 MR. WESTFALL: Let's just stipulate.

21 MS. CADEDDU: Just one other objection for the  
22 record. I think that this is 404(b). We weren't given notice  
23 of it in advance of trial. So for that reason also. I mean,  
24 it is not -- I am speaking for them, I guess. It is 404(b)  
25 material that they were not given notice of in advance of



1 trial. It is an extraneous --

2 THE COURT: Did this come in the last time?

3 MR. JONAS: No. We didn't even -- It wasn't part of  
4 our plan last time. It is our position that it is  
5 inextricably intertwined with what was going on in this case.

6 MS. HOLLANDER: I have one other thing when we are  
7 finished, while we are here.

8 THE COURT: Go ahead.

9 MR. WESTFALL: Your Honor, can we request the jury  
10 out so we can hash out kind of the rest of it. They have been  
11 sitting over there for a while.

12 THE COURT: I don't think we need to send them out  
13 for this. The stipulation is just simply that a deposit or  
14 cash --

15 MR. DRATEL: Cash deposits of more than \$10,000 in  
16 one day require a form to be filled out.

17 MR. JONAS: That gets filed with the Government.

18 MR. DRATEL: Yes.

19 MR. JONAS: And when the appropriate time comes up  
20 after the call --

21 THE COURT: Why don't you write that out and hand it  
22 to them when you get a chance, and you can just read it.

23 MR. WESTFALL: And then you are going to do the  
24 redacted one, the redacted conversations.

25 MR. JONAS: The one I am about to play?

1 MR. WESTFALL: Yes. That is the redacted one.

2 MR. JONAS: I know there are concerns you have.

3 MR. WESTFALL: I received two different versions of  
4 it. One is the long one; one is the short one.

5 MR. JONAS: It is redacted. I will show you my  
6 transcript. I know what you are thinking of.

7 Just to inform Your Honor, Mr. Odeh made some statements  
8 that can be viewed by some people on the jury as racial,  
9 racist.

10 MR. WESTFALL: Racist or realistic depending on  
11 where you live. He was worried about getting mugged because  
12 he had the cash by a black guy.

13 MR. JONAS: So we are mindful of that, and it is not  
14 in the transcript.

15 And Mr. Westfall, I will show you the transcript before  
16 you play it.

17 MR. WESTFALL: That is fine. Well, I want to double  
18 check.

19 MS. CADEDDU: I want to cite a Fifth Circuit case,  
20 *United States versus Sumlin*, a 404(b) reversal in the Fifth  
21 Circuit from 2007.

22 MS. HOLLANDER: We join that.

23 MS. MORENO: Join that objection. Ask for a  
24 limiting instruction, Your Honor. And again, I don't know if  
25 it has been said because I couldn't hear it, but, Your Honor,

1 I think really the limiting instruction whenever it comes, if  
2 it comes after the evidence is in, loses its effectiveness.

3 THE COURT: I am not sure -- The jury has heard a  
4 lot of information over the last couple of weeks. They are  
5 going to hear a lot more. I am not what any effect any of  
6 this, if we gave them a limiting instruction, that they would  
7 remember later on what it applies to. I am not worried about  
8 that. And we will give a proper limiting instruction when the  
9 time comes.

10 MS. HOLLANDER: Your Honor, if I can, I would like a  
11 continuing objection, because I don't want to have to keep  
12 getting up, but Mr. Jonas continually prefaces his questions  
13 with long-leading questions, then goes back and replays things  
14 the jury has already seen to tie things up. Now, I mean it is  
15 really not proper to introduce something and introduce it  
16 again and introduce it again and introduce it again. He just  
17 did it with this Hamas letter. Everyone of those is prefaced  
18 with leading questions.

19 THE COURT: You might want to watch the leading. I  
20 would allow some of that linking it, because this is a lot of  
21 evidence. And I know the jury is confused, so they are  
22 entitled to try to put it together for that jury. So I am  
23 going to give him some latitude.

24 MS. HOLLANDER: And I get that latitude, too.

25 THE COURT: Yes. But watch the leading. That

1 doesn't entitle you to lead. But I do think it is proper. I  
2 think it helps the jury to keep things straight, and so I will  
3 let that happen.

4 MS. MORENO: I just wanted to add my voice to that  
5 particular issue as well, Your Honor. I have not been  
6 objecting to the leading questions, but I do think that it has  
7 gone way over connecting the jury and assisting the jury. I  
8 understand that, and I haven't gotten up on my feet, but this  
9 is direct. It is not cross examination. And I would ask the  
10 Court to --

11 MR. JONAS: I will try, Your Honor.

12 There is one thing, a housekeeping matter. This is  
13 something I mentioned the other day. I have got a series of  
14 exhibits that I need to admit through Agent Burns for the  
15 testimony of later witnesses, and I am getting to the point  
16 where I can probably do that, Your Honor.

17 THE COURT: It is time to do that?

18 MR. JONAS: Not quite yet, but soon, because I am  
19 getting near the end of her testimony. I may finish with her  
20 today.

21 MS. HOLLANDER: The zakat committee thing?

22 MR. JONAS: I am talking about another set of  
23 exhibits which is on the list that we gave you. The zakat  
24 committee schedules that she is going to testify about are  
25 just to show the transactions. But there is a series of

1 exhibits she is not going to say a word about other than to  
2 get them into evidence.

3 THE COURT: What are they about?

4 MR. JONAS: Just different things. There are some  
5 phone calls, some of the same phone calls --

6 THE COURT: That other witnesses will discuss?

7 MR. JONAS: Yes. That need to come in through her.

8 MS. CADEDDU: Why can't we do them when she comes  
9 next time?

10 MR. JONAS: Because some of those witnesses may  
11 testify before she comes back next time.

12 MS. CADEDDU: Are they on the list?

13 MR. JONAS: Yes, they are.

14 MS. HOLLANDER: They are on the list, but I am  
15 assuming that -- I have talked to Mr. Jonas about this and he  
16 agrees to me. Since we are not really getting into these now,  
17 we are not going to cross her on them now.

18 THE COURT: I understand.

19 MR. JONAS: But you are confusing something, Ms.  
20 Hollander. There are financial schedules that I am going to  
21 end her testimony with which show where the HLF sent the money  
22 to the zakat committees, which is the crime here. And she is  
23 going to -- I am going to put those on the screen, and I am  
24 going to have her walk through and explain to the jury some of  
25 those schedules and the transactions so that the jury

1 understands. That is one thing.

2 MS. HOLLANDER: That is what we are not going to  
3 cross about.

4 MR. JONAS: Right.

5 THE COURT: That is what you are not going to cross  
6 about is this second -- If he goes into the zakat committee --  
7 You don't want him to cross on that either?

8 MR. JONAS: Let me just clarify. Agent Burns is  
9 going to come back a second time to testify. The second  
10 testimony she will get into the substance of the zakat  
11 committees and how they are related to Hamas. This sort of  
12 sets that up. So all she is going to say is -- My questions  
13 are going to be, "Where did the HLF send its money to?" And  
14 then we will go through, I don't know how many schedules, six  
15 or seven, and I will put them on the screen and she will walk  
16 the jury through it.

17 THE COURT: And you won't cross on that either?

18 MR. JONAS: That is up to them.

19 MS. HOLLANDER: We prefer not to cross on that.

20 THE COURT: I think that is a better way to do that.

21 MR. WESTFALL: Are we going to do all the financial  
22 transactions that underlie the indictment with her right now,  
23 and we aren't going to be allowed to cross?

24 THE COURT: Eventually you will.

25 MS. HOLLANDER: I was going to wait.

1 THE COURT: He is just getting them in now.

2 MR. JONAS: I am going to get them in now, and she  
3 will get in the second testimony the zakat committee evidence.

4 MS. MORENO: I am sorry. I was under a different  
5 impression. I am so sorry, Mr. Jonas. I was under a  
6 different impression. I thought the whole substance of the  
7 zakat evidence you were going to get in the second go round,  
8 and I thought you and I discussed that. Now I am learning you  
9 are going to get into the financial transactions that underlie  
10 the indictment.

11 MR. JONAS: Then you misunderstood.

12 MS. MORENO: If that is true, I would just ask leave  
13 of Court that if I decide not to cross her on those  
14 transactions, then I can the second time she appears.

15 THE COURT: That is when she is really going to get  
16 into the substance of it.

17 MR. JONAS: Right now it is just to let the jury  
18 know there are these transactions out there going to these  
19 zakat committees, and here are some of the documents that  
20 support it.

21 THE COURT: And why do you think you need to put  
22 that on before she comes back the second time?

23 MR. JONAS: In is separate from what I talked about  
24 a moment ago. This is a bridge for us. The jury has heard a  
25 lot of evidence of what is going on here in the United States,

1 and we want to show the jury, look, now they sent this money  
2 to the zakat committees, so the jury knows there is something  
3 going on overseas, and then she is going to stop.

4 THE COURT: And then you will establish that you  
5 will bring her back later on?

6 MR. JONAS: Yes. And she is going to pick up, as  
7 well as other witnesses later on, now the money goes to the  
8 zakat committees. What happens? Who are these zakat  
9 committees? How are they linked to Hamas?

10 And Your Honor, I did not -- You know, I apologize if you  
11 misunderstood.

12 THE COURT: We have had this conversation before,  
13 because I remember it.

14 MR. JONAS: Separate and apart from that there are a  
15 series of exhibits that she will not say a word about, other  
16 than, "Agent Burns, what is" --

17 THE COURT: Identify them and offer them.

18 MR. JONAS: "What is El-Mezain No. 50?"

19 "El-Mezain No. 50 is a phone call."

20 And I offer it into evidence. I will not pay the phone  
21 call.

22 "What is InfoCom No. 50?"

23 "InfoCom No 50 is a document."

24 "I offer it into evidence."

25 She won't say a word about it, but just to get it into



1 evidence so witnesses later on can talk about it.

2 THE COURT: Okay.

3 MS. HOLLANDER: When we cross her this time, I may  
4 want to on my cross make clear in my cross to her in front of  
5 the jury that we are going to be talking about these zakat  
6 committees later on that she did all this stuff.

7 MR. JONAS: That is fine with me.

8 MR. WESTFALL: Including the financial transactions?

9 MR. JONAS: She is going -- When she comes back the  
10 second time --

11 MS. MORENO: It is up to the Court to allow it.  
12 That is why I ask leave of the Court if you will let me do  
13 that.

14 THE COURT: That is why he is wanting to do it. You  
15 will be entitled to cross at some point.

16 MS. HOLLANDER: I will cross her later, but I want  
17 to bring it up now so the jury doesn't wonder why we are not  
18 crossing her on it.

19 THE COURT: You can do that.

20 MS. CADEDDU: I do want to register an objection. I  
21 don't know exactly what she is going to testify to the second  
22 time around, but I don't think that Agent Burns is qualified  
23 to testify that these zakat committees are Hamas, and I would  
24 strenuously object to that. She is not qualified as an  
25 expert. She is the case agent.

1           THE COURT: Remind me of that before we get to that  
2 point, like at some point --

3           MS. HOLLANDER: I think he may have mentioned that  
4 today.

5           MR. JONAS: That she is an expert?

6           MS. HOLLANDER: No; that these are Hamas.

7           THE COURT: That these zakat committees are Hamas,  
8 are you planning on getting into that today?

9           MR. JONAS: No.

10          THE COURT: Okay. So just remind me before we get  
11 to that point, and we will take that up outside the presence  
12 of the jury.

13          MS. MORENO: Finally, Your Honor, I was also under  
14 the impression, because I have asked Mr. Jonas this several  
15 times because I will be the first to cross examine Agent  
16 Burns, when he was going to finish, and I was told it would be  
17 the end of the today. So I have always anticipated beginning  
18 tomorrow. Now I hear that perhaps it might be earlier, and I  
19 would ask if we can begin cross examination tomorrow.

20          THE COURT: Just remind me. I don't want to break  
21 too early. But if we are close, then we can go ahead and  
22 break.

23          MR. JONAS: Are you faulting me for going a little  
24 faster than anticipated?

25          MS. MORENO: Go as fast as you want, counsel.

1 THE COURT: Okay. That is it. Okay.

2 (The following was had in the presence and hearing  
3 of the jury.)

4 MR. JONAS: I believe I was offering Government's  
5 exhibit El-Mezain Wiretap No. 12 and 12-A.

6 THE COURT: Yes. And Mr. Dratel, those objections  
7 have been noted. They are overruled. And No. 12 and 12-A are  
8 admitted.

9 MR. JONAS: Can you play that call?

10 (Whereupon, El-Mezain Wiretap No. 12 was played,  
11 while questions were propounded.)

12 Q. (BY MR. JONAS) Agent Burns, who is AB and who is MO?

13 A. AB is the Defendant Abdulrahman Odeh and MO is the  
14 Defendant Mohammad El-Mezain.

15 Q. And it has been a few minutes since I asked you this.  
16 What is the date of the call again?

17 A. It was February 27th, 1995.

18 Q. And how soon prior to this call was Hamas first  
19 designated as a terrorist organization?

20 A. Hamas was designated on January 24th, 1995, so  
21 approximately a month.

22 MR. JONAS: Your Honor, at this time I would like to  
23 read a stipulation of the parties into the record.

24 THE COURT: All right.

25 MR. JONAS: By agreement of the parties, "Bank

1 deposits of more than \$10,000 in cash in a single day require  
2 that a form be filled out, and that form is filed with the  
3 U.S. government."

4 THE COURT: And counsel, you agree with that  
5 stipulation?

6 MR. DRATEL: Yes, Your Honor.

7 THE COURT: And as I have explained to you before,  
8 once the parties have made a stipulation, then you can accept  
9 that as a fact without hearing any additional evidence on that  
10 point.

11 Q. (BY MR. JONAS) Agent Burns, did you look at the HLF bank  
12 account for New Jersey to see if in fact cash was deposited on  
13 two separate days in the amounts discussed during that phone  
14 call?

15 A. I did.

16 Q. Do you have HLF Bank Account No. 6?

17 A. I do.

18 Q. What is that bank account?

19 A. This is one of the HLF bank accounts ending in 1581.

20 Q. Where is that bank account -- What bank is that from?

21 A. It is from Hudson United Bank, and that is in Paterson,  
22 New Jersey.

23 MR. JONAS: Your Honor, at this time I would offer  
24 into evidence HLF Bank Account No. 6.

25 THE COURT: That is admitted.

1 MR. JONAS: If we can put just the first page on.

2 Q. (BY MR. JONAS) What is this document?

3 A. This is the signature card for the bank account.

4 Q. Whose signatures are on the signature card?

5 A. For president it appears to be Mohammad El-Mezain, vice  
6 president Shukri Abu Baker, and treasurer Ghassan Elashi,  
7 although I cannot read that first signature for Mohammad  
8 El-Mezain.

9 MR. JONAS: If we can turn to page 4 of this  
10 exhibit, please.

11 Q. (BY MR. JONAS) What does this page represent?

12 A. This is a deposit slip.

13 Q. For how much?

14 A. \$8,950.

15 Q. Was this cash or check?

16 A. Cash.

17 Q. What is the date?

18 A. The same day as the phone call, February 27th, 1995.

19 MR. JONAS: And page 5, please.

20 Q. (BY MR. JONAS) What does this document, this page  
21 represent?

22 A. This is another deposit slip.

23 Q. For how much?

24 A. For \$8,000.

25 Q. What is the date of this deposit?

1 A. February 28th, 1995, the next day.

2 Q. Okay. Do you know if a form was ever filled out with the  
3 government and filed with the government reflecting these two  
4 cash deposits?

5 A. There was no currency transaction report that was filled  
6 out relating to this transaction.

7 Q. Do you have before you what has been marked as Bank  
8 Secrecy Form?

9 A. I don't believe I have that one.

10 MR. JONAS: Your Honor, may I approach?

11 THE COURT: Yes.

12 Q. (BY MR. JONAS) What is that document?

13 A. This is a certification of search for Bank Secrecy Act  
14 forms.

15 Q. It is a certified document?

16 A. It is.

17 Q. Does it relate to any of the Defendants in this case?

18 A. It does; the Defendant Abdulrahman Odeh.

19 MR. JONAS: Your Honor, at this time I would offer  
20 into evidence Government's Exhibit Bank Secrecy Form.

21 THE COURT: Any objections to that? That is  
22 admitted.

23 MR. JONAS: If we can put the second page on the  
24 screen, please.

25 Q. (BY MR. JONAS) And what does this document reflect?

1     A.     It reflects -- This is from the Internal Revenue Service,  
2     the IRS, and it says that the subject is "Certification of  
3     search for Bank Secrecy Act forms." It says, "As the  
4     custodian of records, I have conducted a diligent search of  
5     the Internal Revenue Service records maintained at the Detroit  
6     Computing Center for Abdulrahman Odeh. The above search  
7     indicated no record for the following Bank Secrecy Act forms  
8     were filed for the above information for the period of January  
9     1st, 1995 through December 31st, 2001." And included on that  
10    is the first document a CTR, which is a currency transaction  
11    report.

12                 MR. JONAS: If we can go back to the El-Mezain  
13    Wiretap No. 1 which were those communiques we were looking at  
14    earlier.

15    Q.     (BY MR. JONAS) Did the Defendant Mohammad El-Mezain  
16    continue to receive these communiques, these reports after  
17    Hamis is designated as a terrorist organization?

18    A.     Yes.

19                 MR. JONAS: And if we could turn to page 143. I am  
20    sorry, page 142.

21    Q.     (BY MR. JONAS) What is the date of this report?

22    A.     April 13th, 1995.

23                 MR. JONAS: And if we can turn to the next page now.

24    Q.     (BY MR. JONAS) Can you read that paragraph on this page.

25    A.     Yes. This would be the last paragraph of this report.

1 And it says, "Zionist sources said that representatives of the  
2 U.S. Federal Bureau of Investigation will take part in the  
3 investigations on the suicide attack which occurred last  
4 Sunday near Kfar Darum settlement in the Gaza strip.

5 According to the sources, having the investigators of the U.S.  
6 Federal Bureau of Investigation join the investigation is due  
7 to the death of an American citizen of a Zionist origin. The  
8 American citizen had come to the Zionist entity to study the  
9 Torah in a Jewish religious institute in the city of  
10 Jerusalem. U.S. State Department's spokesman had said that,  
11 'Sending representatives of the federal intelligence to the  
12 Zionist entity comes in accordance with a U.S. law enacted in  
13 1986 which allows the U.S. authorities to investigate  
14 "terrorist crimes" carried out against Americans outside the  
15 United States and bringing the defendants to trial before  
16 American courts.'"

17 Q. Agent Burns, as an FBI agent are you aware if the FBI  
18 travels to other countries to investigate terrorist attacks  
19 when Americans are killed?

20 A. Yes, they are.

21 Q. And does that include traveling to Israel?

22 A. Yes.

23 Q. All right. Agent Burns, of the faxes that the Defendant  
24 Mohammad El-Mezain received regarding Hamas, were any of them  
25 in handwriting; in other words, not a printed report like we



1 have seen so far?

2 A. There were a few that were in handwriting.

3 Q. If you can turn to page 152.

4 A. Okay.

5 Q. What language is that in?

6 A. That is in Arabic.

7 Q. Is there a translation done?

8 A. There is.

9 Q. And if you will turn to page 154, please. Is this  
10 document -- Does this translation identify where this fax came  
11 from or the information came from?

12 A. Can I see the full page just to confirm? On the  
13 translation it does not, but on the original it has a date and  
14 time stamp, and then apparently from the fax machine Gaza  
15 Press is located.

16 Q. Do you know anything about the Gaza Press?

17 A. Nothing.

18 Q. Were there additional faxes from the Gaza Press?

19 A. There may have been one or two.

20 Q. Turn to page 158. This is a translation of one. Is this  
21 also from the Gaza Press?

22 A. It is.

23 Q. Do these items from the Gaza Press also discuss Hamas?

24 A. They do.

25 Q. And even after -- What is the date of this one?

1 A. May 20th, 1995.

2 Q. Did the Defendant Mohammad El-Mezain continue to receive  
3 faxes, communiques in the same nature of the ones that we have  
4 been discussing?

5 A. Yes.

6 Q. Okay. Up through when? When was the last one that the  
7 FBI has?

8 A. The last fax that we have that is being exhibited?

9 Q. Yes.

10 A. Sorry. The last one in my collection is out of date  
11 order, so bear with me. I want to be accurate.

12 Q. If it will be easier, let me just hand you the exhibit.

13 A. Okay. Thank you. The latest date that we are exhibiting  
14 is June 28th, 1995.

15 Q. Okay. You can put that down.

16 A. Okay.

17 Q. Agent Burns, did you come across anything in the Holy  
18 Land Foundation material where suicide bombers were discussed?

19 A. Yes.

20 Q. Do you have before you HLF Search No. 28?

21 A. I do.

22 Q. What is that document?

23 A. This is a transcript of an audiotape.

24 Q. Was the audiotape found at the HLF?

25 A. It was.

1 Q. What is the date? Do you have a date for it?

2 A. I don't believe I do. Let me check my cheat sheet. It  
3 discusses acts inside it that allow you to know that it  
4 happened after a certain date, but the tape itself was not  
5 dated.

6 MR. JONAS: Your Honor, at this time I would offer  
7 into evidence Government's exhibit HLF Search No. 28.

8 MS. HOLLANDER: Objection, Your Honor; unless we  
9 have some idea of time.

10 THE COURT: She says you can tell from the tape.  
11 Overrule that objection. Admitted.

12 Q. (BY MR. JONAS) Agent Burns, from the content of this  
13 audiotape are you able to determine the date?

14 A. I think it was approximately 1996.

15 Q. Why do you say that?

16 A. Again, because of the content of the tape. It discusses  
17 several Hamas activities, including some suicide bombers and  
18 also a martyr Yehia Ayyash.

19 Q. Who is that?

20 A. He was known as the engineer. He was Hamas bomb maker  
21 basically, and he was killed in early 1996.

22 Q. So does the content of the tape discuss him being dead  
23 already?

24 A. Yes, it does.

25 Q. So if this is 1996 or later, is this after or before

1     Hamas was first designated as a terrorist organization by the  
2     United States?

3     A.     After.

4     Q.     How many pages does the translation go for?

5     A.     The translation is eight and a half pages long.

6     Q.     I am not going to have you read it, but have you read  
7     this prior to testifying today?

8     A.     I have.

9     Q.     Could you just generally summarize what this is about?

10           MR. DRATEL:  Objection, Your Honor.

11           MS. HOLLANDER:  Objection, Your Honor.  That calls  
12     for a narrative from the witness.  We ask for a question to  
13     the witness.

14           THE COURT:  Overrule that objection.  You may  
15     summarize.

16           THE WITNESS:  Okay.  The content of the tape, it  
17     includes songs, and in there they are praising people like the  
18     engineer bomb maker Yehia Ayyash.  On page 4 they discuss  
19     several individuals who are involved in a bombing, Raed  
20     Zakarnah Amar Amarnah, things like that.  In here they praise  
21     martyrdom, they praise these acts, and describe them as  
22     heroes.

23     Q.     What language was the audiotape in?

24     A.     Arabic.

25     Q.     So this is an English translation done by the FBI?

1 A. That is correct.

2 Q. Okay. Where was this found again?

3 A. This was found in the HLF offices.

4 Q. Do you know which office?

5 A. I do not know.

6 Q. Dallas or New Jersey is my question.

7 A. I can't tell from the transcript.

8 Q. Okay. In addition to the communiques seized by the  
9 Defendant El-Mezain regarding the suicide bombing, were there  
10 other calls -- We played one call so far. Were there other  
11 calls where the Defendant Mohammad El-Mezain gets a call about  
12 a suicide bombing?

13 A. Yes.

14 Q. Do you have before you El-Mezain Wiretap No. 7?

15 A. I do.

16 Q. And who are the participants on this call?

17 A. Mohammad El-Mezain and Riyadh Mustafa, also known as Abu  
18 Ahmad.

19 Q. What is the date of this call?

20 A. February 25th, 1996.

21 MR. JONAS: Your Honor, at this time I would offer  
22 into evidence Government's Exhibit El-Mezain Wiretap No. 7.

23 THE COURT: And that is admitted.

24 MR. JONAS: If we can play that call, please.

25 (Whereupon, El-Mezain Wiretap No. 7 was played,

1 while questions were propounded.)

2 Q. (BY MR. JONAS) Can you identify who the UM, AB, and MO  
3 are?

4 A. UM is an unknown male, AB is Abu Ahmad, and MO is the  
5 Defendant Mohammad El-Mezain.

6 Q. Okay. Agent Burns, did something happen on that date in  
7 Tel Aviv?

8 A. Yes.

9 MR. JONAS: If we can pull up Demonstrative No. 14  
10 again.

11 Q. (BY MR. JONAS) Agent Burns, do you see the February  
12 25th, 1996 Jerusalem No. 18 suicide bus bombing?

13 A. I do.

14 Q. What was the date of the call in relation to that  
15 bombing?

16 A. It was the same day. And just to note, I think we said  
17 Tel Aviv. It was Jerusalem instead. That was the city.

18 Q. I am sorry.

19 Agent Burns, do you -- In reviewing the body of material  
20 that you reviewed, the search warrant material and everything  
21 else, did you come across something that was called a Fatwa?

22 A. I did.

23 Q. Do you know what a Fatwa is?

24 A. It is basically an edict, a religious ruling.

25 Q. And do you have before you what has been marked as HLF

1 Search No. 29?

2 A. I do.

3 Q. Where did that document come from?

4 A. This came from the HLF San Diego office, which is the  
5 office of the Defendant El-Mezain.

6 Q. And was it in a loose piece of paper? A folder? How did  
7 you find it?

8 A. There was a folder containing several documents, and the  
9 exhibit is the front cover of the folder and one of the  
10 documents that was contained therein.

11 Q. What was the label on the folder?

12 A. HLF Fatwa, which means HLF edicts.

13 MR. JONAS: Your Honor, at this time I would offer  
14 into evidence HLF Search No. 29.

15 MR. DRATEL: Objection; hearsay grounds, Your Honor.

16 THE COURT: And that is overruled, and HLF Search  
17 No. 29 is admitted.

18 MR. JONAS: If we can put the first page on the  
19 screen, please.

20 Q. (BY MR. JONAS) What is this that we are looking at?

21 A. That is a copy of the front cover of the folder. You can  
22 see on the tab there at the top where it says HLF Fatwa.

23 MR. JONAS: The next page, please.

24 THE WITNESS: And that is the translation of the  
25 folder cover.

1 MR. JONAS: Okay. Next page, please.

2 Q. (BY MR. JONAS) This page that you see here, what is it  
3 entitled?

4 A. Fatwa.

5 Q. Was this found in English or Arabic?

6 A. This page was originally in English.

7 Q. Can you read this document please?

8 A. Yes. It says, "Paying zakat to those who work to restore  
9 the Shar'a of Allah.

10 "We believe that the meaning of, 'in the path of Allah,'  
11 includes supporting Islamic da'wa and making the word of Allah  
12 high (prevail). This is strongly supported because it is a  
13 general term that includes jihad with arms to fight the  
14 enemies which is more important than other things. The same  
15 term also includes everything that pleases Allah because of  
16 the term's generality, and there is nothing to support its  
17 specificity to jihad only, therefore it remains a general term  
18 that includes all interests of Muslims, especially anything  
19 that makes them victorious.

20 "There is no doubt that working to restore Islamic life  
21 and to re-establish the Islamic state is a tremendous task and  
22 a duty on everyone, to the best of his or her abilities, and  
23 if the first opinion or meaning of them in the path of Allah  
24 is applied to today's situation, it would mean to support  
25 every effort that stops Kufr and its regimes and



1 re-establishes the Islamic state.

2 "It is therefore allowed to pay zakat to those parties,  
3 groups, and Islamic societies in the West, for example,  
4 because they aspire to restore Islamic life, erase Kufr  
5 regimes, and replace them with the sharia'a of Allah. It is  
6 in fact enough that they would most likely influence the  
7 realization of that goal even in a partial manner, for that  
8 partially would grow through the years to become big, and at  
9 that time zakat will be paid to every action that could be  
10 considered as a means to reach that goal, because means are  
11 considered that same as goals, and whatever is a precondition  
12 or requirement to a duty 'wajib' is considered a duty 'wajib'  
13 provided that means themselves or Islamically lawful. This  
14 opinion is supported by Sayid Rashid Rida, Dr. Yousef El  
15 Karadawi, Sheikh Sayid Sabiq, and others."

16 Q. Agent Burns, I am going to put back up on the easel  
17 Government's HLF Search No. 87. I don't know if you can see  
18 that.

19 A. I can.

20 Q. Okay. What is this document again?

21 A. That is a list of the HLF's overseas speakers.

22 Q. The name of the person on the bottom of HLF Search No.  
23 29, the Fatwa that you just read, Yousef El Karadawi, is his  
24 name anywhere on this overseas speaker list?

25 A. It is, No. 65, second from the bottom there.

1 Q. I see that the last name spelled slightly differently.

2 A. Again, it is just a phonetic translation. It is  
3 pronounced the same way.

4 Q. Did you find anything else in HLF Search No. 29, the  
5 Fatwas, that are connected to the Defendants?

6 A. Yes. There was a note attached to this or with this  
7 Fatwa.

8 Q. Was the note in English or Arabic?

9 A. It was in Arabic.

10 Q. Did you have it translated?

11 A. I did.

12 MR. JONAS: If we can put the note on the page,  
13 please, page 4.

14 Q. (BY MR. JONAS) Is that it?

15 A. That is the Arabic version.

16 MR. JONAS: Page 5, please.

17 Q. (BY MR. JONAS) If you can read that.

18 A. Yes. It says, "Honorable brother/Rasmi Al Mallah, Abu  
19 Omar, may God protect him."

20 After greetings it says, "My greetings to you and to all  
21 the brothers working with you in the school. Attached with  
22 this are the copies of the edicts as requested by brother  
23 Marawan. May God reward him, all that is good, to be sent to  
24 brother Mufid.

25 "Asking the Almighty One to make you benefit from them

1 and to bring goodness to your hands.

2 "Your brother, Abu Ibrahim.

3 "12/1/1999."

4 Q. And was Hamas designated as a terrorist organization at  
5 this point?

6 A. It was.

7 Q. Have you ever seen -- Again, in the body of material that  
8 you reviewed from the search warrants, did you come across  
9 anything else involving Qaradawi?

10 A. Yes.

11 Q. Do you have before you what has been marked as HLF Search  
12 No. 30?

13 A. I do.

14 Q. What is that item?

15 A. It is a clipping from a newspaper that includes a  
16 photograph of Qaradawi.

17 Q. Okay. Where was it found?

18 A. At the HLF New Jersey office.

19 MR. JONAS: Your Honor, at this time I would offer  
20 into evidence Government's Exhibit HLF Search No. 30.

21 MR. WESTFALL: No objection, Your Honor.

22 THE COURT: Admitted.

23 MR. JONAS: Put that on the screen, please.

24 Q. (BY MR. JONAS) Agent Burns, there is writing on the  
25 bottom. Do you see that?

1 A. I do.

2 Q. What language is that writing?

3 A. In Arabic.

4 Q. Does that Arabic writing describe who is in this picture?

5 A. It does.

6 Q. Is that translated?

7 A. It was.

8 Q. Do you have the translation before you?

9 A. On page 2.

10 Q. Agent Burns, if you can read the translation you have  
11 while we keep the picture on the screen.

12 A. Okay. The caption under the photo says, "Sheik Hasan  
13 Nasrallah is between the Muslim Egyptian preacher Sheik Yussif  
14 al-Qaradawi and the official in Hamas movement Khaled Mishal  
15 during their partition in the Islamic National Conference in  
16 Beirut on Friday (Reuters.)".

17 Q. Have we seen Khalid Mishal in this case before?

18 A. We have.

19 Q. For the record, I am putting up Demonstrative No. 17. Is  
20 he on this chart of Hamas leaders in the '90s?

21 A. He is closest to me on the top row.

22 Q. The individual I am pointing to?

23 A. That is correct.

24 Q. And then on this picture where would he be on this  
25 newspaper clipping that was found in New Jersey?

1 A. He is on the left.

2 Q. According to the translation you read, which one would be  
3 Yousef Qaradawi?

4 A. The individual on the right with the glasses.

5 Q. Was there anything else, any other pictures or anything  
6 of that nature found at the New Jersey office that references  
7 any Hamas leaders?

8 A. Yes.

9 Q. Do you have before you what has been marked as HLF Search  
10 No. 31?

11 A. I do.

12 Q. And without describing the contents, what is that  
13 document?

14 A. It is a flier that was taken from the HLF New Jersey  
15 office containing photographs of a Hamas individual.

16 MR. JONAS: Your Honor, at this time I would offer  
17 into evidence HLF Search No. 31.

18 MR. WESTFALL: No objection, Your Honor.

19 THE COURT: Admitted.

20 MR. JONAS: If we can put that on the screen,  
21 please.

22 Q. (BY MR. JONAS) Was this in English when the FBI found  
23 it?

24 A. It was.

25 Q. What does this say?

1 A. It says it was published by the Islamic Association for  
2 Palestine in North America. And to the right you can see  
3 where it says, "One year anniversary of imprisonment Ahmed  
4 Yassin." And it indicates he was imprisoned May 18, 1989  
5 through May 18, 1990, which would be the date of this because  
6 his imprisonment extended past that date.

7 Q. What year was this found?

8 A. This was found in December of 2001 in Abdulrahman Odeh's  
9 office.

10 MR. JONAS: One moment, Your Honor?

11 THE COURT: Yes.

12 MR. JONAS: Your Honor, could we take our recess at  
13 this time? I know it is a few minutes early, but I just need  
14 to confirm one thing.

15 THE COURT: Let's take a recess. Be back at 3:30.

16 (Whereupon, the jury left the courtroom.)

17 THE COURT: All right. We are in recess until 3:30.

18 (Brief recess.)

19 THE COURT: Mr. Jonas?

20 MR. JONAS: Thank you, sir.

21 Q. (BY MR. JONAS) Agent Burns, we were talking about items  
22 found in New Jersey office of HLF.

23 A. Yes.

24 Q. Do you have with you HLF Search No. 32?

25 A. I believe that is a videotape.

1 Q. Do you know where that videotape was found?

2 A. The HLF New Jersey office.

3 MR. JONAS: Your Honor, at this time I would offer  
4 HLF Search No. 32.

5 THE COURT: Admitted.

6 MR. JONAS: I offered Baker Wiretap No. 7 and  
7 El-Mezain Wiretap No. 7. I wanted to make sure I also offered  
8 No. 7-A.

9 THE COURT: And you had not, so you are offering No.  
10 7-A?

11 MR. JONAS: Right.

12 THE COURT: That is admitted.

13 MR. JONAS: If we can play HLF Search No. 32.

14 (Whereupon, HLF Search No. 32 was played, while  
15 questions were propounded.)

16 Q. (BY MR. JONAS) Agent Burns, are you able to date this  
17 videotape?

18 A. This videotape came from the period of the first  
19 Intifada, so sometime between 1989 and 1992.

20 Q. Agent Burns, you said you were able to date it  
21 approximately '89 to '92, but when was this tape seized?

22 A. December of 2001.

23 Q. Agent Burns, were there any phone calls intercepted by  
24 the FBI between the Defendants where they discussed any Hamas  
25 leaders in the news?

1 A. Yes.

2 Q. Do you have before you Baker Wiretap No. 37?

3 A. I do.

4 Q. And what is that?

5 A. This is a phone call between Defendants Shukri Abu Baker  
6 and Ghassan Elashi.

7 Q. What is the date of the phone call?

8 A. August 2nd, 1995.

9 MR. JONAS: Your Honor, at this time I would offer  
10 into evidence Baker Wiretap No. 37 and 37-A.

11 THE COURT: That is admitted.

12 MR. JONAS: If we can play that phone call, please.

13 (Whereupon, Baker Wiretap No. 37 was played, while  
14 questions were propounded.)

15 Q. (BY MR. JONAS) Agent Burns, who is the SH and who is the  
16 GH?

17 A. SH is the Defendant Shukri Abu Baker and GH is the  
18 Defendant Ghassan Elashi.

19 Q. With regard to Hamas and their leaders, what was going on  
20 at this time, at the time of this call?

21 A. Hamas leader Mousa Abu Marzook, who we have talked about  
22 extensively, was arrested the end of July of 1995 in New  
23 York's JFK Airport by Immigration, and he was placed into  
24 extradition proceedings.

25 Q. And what was the date of this call in relationship to



1     that?

2     A.     August 2nd, 1995, so shortly thereafter.

3             MS. MORENO:   Your Honor, may we approach briefly?

4             THE COURT:    Yes.

5             (The following was had outside the hearing of the  
6             jury.)

7             MS. MORENO:   I actually had a question of counsel,  
8     because I can't tell from this particular excerpt.  Is this a  
9     portion of the entire transcript?

10            MR. JONAS:    I believe so, yes.

11            MS. MORENO:   Okay.  I wasn't sure of that, Your  
12     Honor, because it is a bit confusing to go back and forth.

13            I would just bring to the Court's attention that I would  
14     in cross examination be raising a 106 issue with the witness  
15     on this particular transcript.

16            THE COURT:    That is fine.  You can go into it.

17            MS. MORENO:   I couldn't tell from my notes, but I  
18     thought that it was a portion, but I couldn't tell.

19            MR. JONAS:    From a practical point, if there are  
20     portions that Ms. Moreno wants to raise to question Agent  
21     Burns and you want us to play that portion, we need to know in  
22     advance because we are not going to have it ready to go at  
23     that very second.

24            MS. HOLLANDER:  I am assuming we can do the 106 on  
25     cross and just have her read them.

1 MR. MYSLIWIEC: Use the transcripts.

2 MR. JONAS: That is fine. Of course, we may object.  
3 It may not meet the grounds for 106. But putting that aside,  
4 if you want us to play portions I need advanced notice.

5 MS. MORENO: I just couldn't tell, because I was  
6 trying to match up the different conversations. So I  
7 apologize, but I just wanted to clear it up.

8 THE COURT: All right.

9 MS. MORENO: Thank you.

10 (The following was had in the presence and hearing  
11 of the jury.)

12 Q. (BY MR. JONAS) Agent Burns, in your review of the  
13 materials seized during the various search warrants, did you  
14 come across a particular article that was read by the  
15 Defendant Ghassan Elashi?

16 A. I did.

17 Q. Do you have before you InfoCom Search No. 73?

18 A. I do.

19 Q. What is that item?

20 A. This is a copy of the article that the Defendants Baker  
21 and Elashi were discussing.

22 Q. Where was this found?

23 A. At InfoCom, Ghassan Elashi's company.

24 Q. When was it found?

25 A. In September of 2001.

1           MR. JONAS: Your Honor, at this time I would offer  
2 into evidence Government's exhibit InfoCom Search No. 73.

3           MS. MORENO: Objection to hearsay, Your Honor.

4           THE COURT: That is overruled, and InfoCom Search  
5 No. 73 is admitted.

6 Q.    (BY MR. JONAS) Is that the copy of the article on the  
7 screen?

8 A.    It is, the first half.

9 Q.    The first half of the screen?

10 A.    That is correct.

11 Q.    All right. Agent Burns, were there other phone calls  
12 between the Defendants where they discussed Hamas being  
13 referenced in the media?

14 A.    Yes.

15 Q.    Do have before you Baker Wiretap No. 10?

16 A.    I do.

17 Q.    Who are the participants on that call?

18 A.    The Defendants Shukri Abu Baker and Ghassan Elashi.

19 Q.    And what is the date of that call?

20 A.    August 1st, 1997.

21 Q.    What was happening with Hamas around that time, if you  
22 know?

23 A.    Two individuals had been arrested in New York in a  
24 bombing plot, and in the media it was initially published that  
25 they were part of Hamas.

1           MR. JONAS: Your Honor, at this time I would offer  
2 into evidence Government's Exhibit Baker Wiretap No. 10 and  
3 10-A.

4           MS. HOLLANDER: No further objections, Your Honor.

5           THE COURT: Those two exhibits are admitted.

6           MR. JONAS: If we can play the segments of that  
7 call.

8           (Whereupon, Baker Wiretap No. 10 was played, while  
9 questions were propounded.)

10          Q.    (BY MR. JONAS) Agent Burns, could you just tell us who  
11 GH and SH are in this call?

12          A.    GH is the Defendant Ghassan Elashi and SH is Shukri Abu  
13 Baker.

14           MR. JONAS: Your Honor, at this time I need to do  
15 the housekeeping matter we talked about with Agent Burns.

16           THE COURT: Yes.

17          Q.    (BY MR. JONAS) Agent Burns, I want to just have you  
18 identify certain exhibits, if you can, to offer them into  
19 evidence, but I don't believe you will be testifying about  
20 these particular exhibits. And if you need to see them or a  
21 listing of them to refresh your memory as to what they are,  
22 that is fine.

23           HLF Bank Account No. 1.

24          A.    That is one of the HLF's bank accounts.

25           MR. JONAS: Your Honor, at this time I would offer

1       into evidence HLF Bank Account No. 1.

2               THE COURT: Any objection? Admitted.

3               MR. JONAS: Your Honor, if I may, so we don't have  
4       to keep bringing these exhibits up to Agent Burns, the list  
5       may refresh her recollection as to what the item is, so if I  
6       may hand her my list.

7               THE COURT: All right.

8       Q.     (BY MR. JONAS) HLF Search No. 11 and HLF Search No. 12.

9       A.     HLF Search No. 11 is a phone bill and No. 12 is an  
10      Airfone bill.

11      Q.     Whose phone bills are those?

12      A.     The first is for the HLF and the second is for El-Mezain,  
13      the Defendant.

14              MR. JONAS: I offer into evidence HLF Search No. 11  
15      and HLF Search No. 12.

16              THE COURT: Those are admitted.

17      Q.     (BY MR. JONAS) Islamic Relief Account No. 1.

18      A.     That is a bank account for the Islamic Relief Committee.

19      Q.     Does that relate to the schedule we looked at the other  
20      day of the payments to the Islamic Relief Committee?

21      A.     Yes, it is.

22              MR. JONAS: Your Honor, I would offer into evidence  
23      Islamic Relief Account No. 1?

24              THE COURT: Admitted.

25      Q.     (BY MR. JONAS) HLF Search No. 111.

1 A. That is a videotape.

2 Q. Taken from where?

3 A. Taken from the HLF offices.

4 MR. JONAS: Your Honor, I would offer into evidence  
5 HLF Search No. 111.

6 THE COURT: Admitted.

7 Q. (BY MR. JONAS) HLF Search No. 125.

8 A. Also a videotape taken from the HLF offices.

9 MR. JONAS: I offer into evidence HLF Search  
10 No. 125.

11 THE COURT: Admitted. .

12 Q. (BY MR. JONAS) Mushtaha Search No. 8.

13 A. That is a videotape as well taken from the yard of Fawaz  
14 Mushtaha.

15 MR. JONAS: I offer into evidence Mushtaha Search  
16 No. 8.

17 THE COURT: Admitted.

18 Q. (BY MR. JONAS) HLF Search No. 49?

19 A. These are records taken from the HLF or during the HLF  
20 search warrant relating to some financial transactions that we  
21 will be discussing.

22 MR. JONAS: I offer into evidence HLF Search No. 49.

23 THE COURT: Admitted.

24 MS. HOLLANDER: Your Honor, we are not objecting,  
25 assuming that when we get a chance to look at them that they

1 are accurate.

2 THE COURT: All right. And you will have that  
3 chance.

4 MS. HOLLANDER: Thank you.

5 Q. (BY MR. JONAS) HLF Foreign Account No. 2.

6 A. That would be an HLF foreign bank record.

7 MR. JONAS: Your Honor, offer into evidence HLF  
8 Foreign Account No. 2.

9 THE COURT: Admitted.

10 Q. (BY MR. JONAS) HLF Foreign Account No. 6?

11 A. That is also an HLF foreign bank account record.

12 MR. JONAS: Your Honor, offer into evidence HLF  
13 Foreign Account No. 6.

14 THE COURT: Admitted.

15 MR. JONAS: I apologize for jumping around, Agent  
16 Burns. My list isn't in a great order. HLF Search No. 62.

17 A. These are documents seized during the HLF search warrant  
18 relating to financial transactions that we will discuss.

19 MR. JONAS: Your Honor, I offer into evidence HLF  
20 Search No. 62.

21 THE COURT: Admitted.

22 Q. (BY MR. JONAS) HLF Search No. 76?

23 A. This is correspondence relating to an organization to  
24 whom the HLF was sending money, seized during an HLF search  
25 warrant.

1 MR. JONAS: I offer into evidence HLF Search No. 76.

2 THE COURT: Admitted. .

3 Q. (BY MR. JONAS) HLF Search No. 84?

4 A. This is a manual relating to an entity to whom the HLF  
5 was sending money taken from the HLF search warrant.

6 MR. JONAS: I offer into evidence HLF Search No. 84.

7 THE COURT: Admitted.

8 Q. (BY MR. JONAS) HLF Search No. 83?

9 A. This is material taken from the HLF search warrant  
10 relating to an individual within whom the HLF had a financial  
11 relationship.

12 MR. JONAS: I offer into evidence HLF Search No. 83.

13 THE COURT: Admitted.

14 Q. (BY MR. JONAS) HLF Search No. 82?

15 A. These are documents taken from the HLF or during the HLF  
16 search warrant relating to an entity with whom the HLF had  
17 financial connections.

18 MR. JONAS: I offer into evidence HLF Search No. 82.

19 THE COURT: Admitted.

20 Q. (BY MR. JONAS) HLF Search No. 81?

21 A. Same thing. HLF search warrant material that relates to  
22 financial transactions with an entity.

23 MR. JONAS: I offer into evidence HLF Search No. 81.

24 THE COURT: Admitted.

25 Q. (BY MR. JONAS) HLF Search No. 62. I am sorry Before I



1 do that -- I am trying to keep some sort of order here. HLF  
2 Search No. 77?

3 A. This is a document taken during the HLF search warrant  
4 relating to an entity with whom the HLF had financial  
5 transactions.

6 MR. JONAS: I offer into evidence HLF Search No. 77.

7 THE COURT: Admitted. .

8 Q. (BY MR. JONAS) HLF Search No. 75?

9 A. This is a videotape taken from the HLF offices.

10 MR. JONAS: I offer into evidence HLF Search No. 75.

11 MS. HOLLANDER: We will have objections later, Your  
12 Honor.

13 THE COURT: That is admitted.

14 Q. (BY MR. JONAS) HLF Search No. 70?

15 A. This is also a videotape taken during the HLF search  
16 warrant.

17 MR. JONAS: I offer into evidence HLF Search No. 70.

18 THE COURT: Okay. Admitted.

19 MR. JONAS: HLF Search No. 62.

20 THE COURT: I think you started off with No. 62. I  
21 show that in.

22 MR. JONAS: Thank you, sir.

23 Q. (BY MR. JONAS) HLF Search No. 49.

24 MR. JONAS: I am sorry, Your Honor. I am told that  
25 is already in.

1 THE COURT: Yes.

2 MR. JONAS: That saves that one.

3 Q. (BY MR. JONAS) HLF Search No. 125.

4 MR. JONAS: That is in?

5 Q. (BY MR. JONAS) Okay. HLF Search No. 113?

6 A. This is a videotape taken during the HLF search warrant.

7 MR. JONAS: I offer into evidence HLF Search No.  
8 113.

9 THE COURT: Admitted.

10 Q. (BY MR. JONAS) HLF Search No. 109. I think that one is  
11 in. HLF Search No. 105?

12 A. This is material taken during the HLF search warrant  
13 relating to the Islamic Center of Gaza.

14 MR. JONAS: I offer into evidence HLF Search No.  
15 105.

16 THE COURT: Admitted.

17 Q. (BY MR. JONAS) HLF Search No. 32.

18 THE COURT: I show that one in.

19 Q. (BY MR. JONAS) Okay. HLF Search No. 36.

20 A. HLF Search No. 36 are documents relating to financial  
21 transactions taken from the HLF during the search warrant.

22 MR. JONAS: I offer into evidence HLF Search No. 36.

23 THE COURT: Admitted.

24 Q. (BY MR. JONAS) InfoCom Search No. 28?

25 MS. HOLLANDER: It is in.

1 MR. JONAS: Okay.

2 Q. (BY MR. JONAS) InfoCom Search No. 31?

3 A. This is a set of correspondence from the Defendant Shukri  
4 Abu Baker taken during the InfoCom search warrant.

5 MR. JONAS: I offer into evidence InfoCom Search  
6 No. 31.

7 THE COURT: Admitted. .

8 Q. (BY MR. JONAS) InfoCom Search No. 47?

9 A. These are documents relating to HLF financial  
10 transactions taken from InfoCom.

11 MR. JONAS: I offer into evidence InfoCom Search  
12 No. 47.

13 THE COURT: Admitted.

14 Q. (BY MR. JONAS) InfoCom Search No. 58 through 65.

15 A. InfoCom Search?

16 Q. Yes. InfoCom Search No. 58 through 65.

17 A. Okay. InfoCom Search No. 58 through 64 are letters  
18 relating to entities with whom the HLF had a financial  
19 relationship.

20 MR. JONAS: I offer into evidence InfoCom search 58,  
21 59, 60, 61, 62, 63, and 64.

22 MS. HOLLANDER: Your Honor, so I don't have to keep  
23 getting up, we may have objections to all of these that we  
24 will raise at a later time.

25 THE COURT: We will give you that opportunity.

1 Those are admitted for now.

2 MS. HOLLANDER: Thank you.

3 Q. (BY MR. JONAS) InfoCom Search No. 65?

4 A. That is a videotape taken from InfoCom.

5 MR. JONAS: I offer into evidence InfoCom Search  
6 No. 65.

7 THE COURT: That is admitted. .

8 Q. (BY MR. JONAS) InfoCom Search No. 79.

9 A. This is also a videotape taken during the InfoCom search  
10 warrant.

11 MR. JONAS: I offer into evidence InfoCom Search  
12 No. 79.

13 THE COURT: Admitted. .

14 Q. (BY MR. JONAS) Elbarasse Search No. 22.

15 A. This is a letter to the Defendant Shukri Abu Baker taken  
16 during the Elbarasse search warrant.

17 MR. JONAS: Your Honor, I offer into evidence  
18 Elbarasse Search No. 22.

19 THE COURT: Admitted. .

20 Q. (BY MR. JONAS) Okay. Baker Wiretap No. 13 and 13-A.

21 A. This is a conversation that was recorded during the Baker  
22 Wiretap No. 13 that was from January of 1997.

23 MR. JONAS: Okay. Your Honor I offer into evidence  
24 Baker Wiretap No. 13 and 13-A.

25 MS. HOLLANDER: It was a conversation? I thought it

1 was a fax. Is it a fax?

2 THE WITNESS: I am sorry. It is a fax. There is no  
3 13-A.

4 MR. JONAS: Your Honor, I offer into evidence Baker  
5 Wiretap No. 13.

6 THE COURT: All right. And that is admitted.

7 Q. (BY MR. JONAS) Baker Wiretap 34 and 34-A. I think if  
8 you go to the very back you may find it.

9 A. This is a conversation, the transcript and audio for a  
10 conversation from Shukri Abu Baker's wiretap dated December  
11 2nd, 1999.

12 MR. JONAS: I offer into evidence Baker Wiretap No.  
13 34 and 34-A.

14 THE COURT: Admitted.

15 Q. (BY MR. JONAS) Baker Wiretap No. 38 and 38-A.

16 A. This is also a conversation recorded on the Shukri Abu  
17 Baker wiretap from December 3rd, 1999.

18 MR. JONAS: I offer into evidence Baker Wiretap No.  
19 38 and 38-A.

20 THE COURT: Admitted.

21 Q. (BY MR. JONAS) And finally El-Mezain Wiretap No. 13.

22 A. No. 13 and 13-A are the transcript and audio of a  
23 conversation captured on the El-Mezain wiretap dated October  
24 28, 1994.

25 MR. JONAS: Offer into evidence El-Mezain Wiretap

1 No. 13 and 13-A.

2 THE COURT: Admitted.

3 MR. JONAS: Okay. Your Honor, thank you very much.  
4 That takes care of that housekeeping matter.

5 THE COURT: All right.

6 Q. (BY MR. JONAS) Agent Burns, you have identified a number  
7 of ways that the HLF and individual Defendants have raised  
8 funds. Did you examine where those funds went?

9 A. I did.

10 Q. Okay. Did you create schedules of where those funds  
11 went?

12 A. I assisted in creating schedules, yes.

13 Q. Can you tell us how you divided that up?

14 A. Yes. In preparing the schedules, we made them similar to  
15 those charts that we talked about earlier on where there was a  
16 line for each transaction, and they were in chronological  
17 order with the date being first, the payee, you know, all  
18 those different things on the chart.

19 Q. I am sorry. I don't think my question was clear.

20 A. I am sorry.

21 Q. That is okay. It is my fault. Did you create schedules  
22 for every penny that the HLF sent?

23 A. No, we did not.

24 Q. Did you just focus exclusively on where some of the money  
25 went?

1 A. Yes.

2 Q. How did you identify where to focus on where some of that  
3 money went?

4 A. We looked at the primary recipients of the HLF's money,  
5 organizations in the West Bank and Gaza primarily, and  
6 identified specific entities that we focused on.

7 Q. For purposes of your testimony, did you create a chart  
8 with some of these entities that the HLF sent money to in the  
9 West Bank and Gaza Strip?

10 A. We did.

11 Q. Do you have before you those charts which are identified  
12 as payments to certain organizations?

13 A. I do.

14 Q. Let's take the first one which is marked Payments to  
15 IC/Hebron. Do you have that before you?

16 A. I do.

17 Q. And what is that based on?

18 A. The chart is based on bank records and search warrant  
19 material.

20 Q. Does this chart summarize the search warrant material and  
21 the bank records that support these financial transactions?

22 A. Yes.

23 MR. JONAS: Your Honor, at this time I would offer  
24 into evidence exhibit marked Payments to IC/Hebron.

25 MS. HOLLANDER: Your Honor, again, these are going

1 to come up later, and we would like to reserve our objections.

2 THE COURT: That is admitted conditionally.

3 MS. HOLLANDER: Thank you, Your Honor.

4 THE COURT: You have that under your summary charts?

5 Is that where you have it listed?

6 MR. JONAS: Yes, sir.

7 Q. (BY MR. JONAS) Agent Burns, what does it say on the  
8 sticker?

9 A. The sticker says Payments to IC/Hebron.

10 Q. And on the top of the chart what does it say?

11 A. Payments to Islamic Charitable Society/Hebron.

12 Q. Was Islamic Charitable Society too big to fit on the  
13 sticker?

14 A. It was.

15 MR. JONAS: Your Honor, at this time I would offer  
16 the into evidence the summary chart Payments to IC/Hebron.

17 THE COURT: And that is admitted.

18 MR. JONAS: If we could put the first page on the  
19 screen, please.

20 Q. (BY MR. JONAS) This chart is based upon bank records and  
21 search warrant material, Agent Burns?

22 A. That is correct.

23 MR. JONAS: Your Honor, I will move into evidence  
24 those items.

25 Q. (BY MR. JONAS) Agent Burns, what is HLF Search No. 33?



1 A. Those are search warrant materials that relate to the  
2 transaction on this schedule.

3 MR. JONAS: Your Honor, I will offer into evidence  
4 HLF Search No. 33.

5 THE COURT: Why don't just you have her identify  
6 each of those that are supporting documents, and we will do  
7 that all at once.

8 Q. (BY MR. JONAS) I know some of them repeat, but can you  
9 say them one time?

10 A. Okay. I will try. And I don't have a list of what has  
11 already been admitted, so bear with me.

12 HLF Bank Account No. 3 would be an HLF bank account.  
13 InfoCom Search No. 13 would be records obtained from InfoCom  
14 during the search warrant relating to these transactions.

15 If we can scroll down. I think those are all the same  
16 exhibits.

17 If we could go to the next page. InfoCom Search No. 12  
18 are records obtained during the InfoCom search warrant that  
19 relate to this transaction. HLF Bank Account No. 1, again,  
20 bank records of the HLF relating to these transactions.

21 If we can go to -- I am looking to see if there are any  
22 additional exhibits. Page 4.

23 Q. (BY MR. JONAS) Do you see any foreign bank accounts?

24 A. I just found one on page 4. The Islamic charity account,  
25 which would be bank records relating to the Islamic Charitable

1 Society of Hebron.

2 Q. Okay.

3 A. I see a Bank One WRES. It would be bank records relating  
4 to these transactions.

5 Q. Okay.

6 MS. HOLLANDER: Can you say that again, please? I  
7 am sorry. I was writing the last one.

8 THE WITNESS: It says Bank One WRES at the bottom of  
9 page 4.

10 Q. (BY MR. JONAS) Is that supposed to be wires?

11 A. It probably is. I can't see the I on my copy.

12 Q. Is that all you identified?

13 A. I want to make sure there are no others on page 7. That  
14 appears to be it.

15 MR. JONAS: Your Honor, at this time I would offer  
16 into evidence I think the ones that have not been admitted  
17 already, HLF Search No. 33, InfoCom Search No. 12, Bank One  
18 Wires, the exhibit number is Bank One Wires, the Islamic  
19 Charity Account, which is a bank account for the Islamic  
20 charitable account of Hebron.

21 THE WITNESS: Excuse me, Mr. Jonas. This chart is  
22 quite lengthy, so just bear with me for a second. There was  
23 HLF Foreign Account No. 4 we have not mentioned, which are HLF  
24 foreign bank records relating to these transactions. And I  
25 believe HLF Foreign Account No. 5, again an HLF foreign bank

1 record relating to these transactions.

2 MR. JONAS: So I offer in addition HLF Foreign  
3 Account No. 4 and 5?

4 THE WITNESS: And I see HLF Foreign Account No. 6  
5 and 8, again relating to this.

6 MR. JONAS: And HLF Foreign Account No. 6 and 8.

7 THE COURT: Why don't you take some time and just  
8 put -- I am not sure I have it all right.

9 MR. JONAS: Can I propose another way? I have got a  
10 little bit of a cheat sheet of my own. If I can just go  
11 through those with Agent Burns. And this covers not just this  
12 schedules but the additional schedules I am about to show her.

13 THE COURT: At some point, so counsel can have all  
14 this written down.

15 MR. JONAS: Your Honor, I was just requested to go  
16 slow. So I am going to try to admit all the bank records and  
17 the search warrant material that support the financial  
18 transactions, get them out of the way, and then I will move  
19 onto the schedules.

20 THE COURT: Right.

21 MR. JONAS: Thank you, sir.

22 Q. (BY MR. JONAS) Agent Burns, do you still have the  
23 exhibit list that I handed you before so you can identify what  
24 these documents are as we go through them?

25 A. Yes, I do.

1           MR. JONAS: And I apologize, Your Honor, if I  
2 identify something that has already been admitted.

3 Q.     (BY MR. JONAS) Agent Burns, InfoCom Search No. 77?

4 A.     These are documents relating to financial transactions of  
5 the HLF.

6           MR. JONAS: I offer into evidence InfoCom Search  
7 No. 77.

8           THE COURT: Admitted.

9           MS. MORENO: Counsel, are we still on the IC/Hebron?

10          MR. JONAS: No, ma'am. I am just admitting all the  
11 financials now, both search warrant and bank accounts, to  
12 cover all the schedules that are coming up in the next few  
13 minutes.

14          MS. HOLLANDER: And these are part of the  
15 conditional admissions?

16          THE COURT: Yes.

17 Q.     (BY MR. JONAS) HLF Search No. 48.

18 A.     Documentation relating to the HLF's financial  
19 transactions.

20          MR. JONAS: Offer into evidence HLF Search No. 48.

21          THE COURT: Admitted.

22 Q.     (BY MR. JONAS) HLF Foreign Account No. 2.

23 A.     That is an HLF foreign bank account.

24 Q.     When you say foreign bank account, can you describe what  
25 you mean?

1 A. A bank account that the HLF had somewhere else, and in  
2 this instance it would be either the West Bank or Gaza.

3 MR. JONAS: I offer into evidence HLF Foreign  
4 Account No. 2.

5 THE COURT: Admitted.

6 Q. (BY MR. JONAS) InfoCom Search No. 19?

7 A. Documents relating to the HLF financial transactions.

8 MR. JONAS: Offer into evidence InfoCom Search  
9 No. 19.

10 THE COURT: Admitted.

11 Q. (BY MR. JONAS) HLF Search No. 41?

12 A. Documents relating to HLF financial transactions.

13 MR. JONAS: Offer into evidence HLF Search No. 41.

14 THE COURT: Admitted.

15 MR. JONAS: Your Honor, HLF Foreign Account No. 4  
16 and 5 are in?

17 THE COURT: Yes.

18 Q. (BY MR. JONAS) InfoCom Search No. 21?

19 A. Documents relating to HLF financial transactions.

20 MR. JONAS: Offer into evidence InfoCom Search  
21 No. 21.

22 THE COURT: Admitted.

23 Q. (BY MR. JONAS) Islamic Association of Gaza Account.

24 A. That is a foreign bank record relating to the Islamic  
25 Association in Gaza with which the HLF had financial

1 transactions.

2 MR. JONAS: Offer into evidence Islamic Association  
3 of Gaza Account.

4 THE COURT: Admitted.

5 Q. (BY MR. JONAS) HLF Search No. 43.

6 A. Documents relating to the HLF financial transactions.

7 MR. JONAS: Offer into evidence HLF Search No. 43.

8 THE COURT: Admitted.

9 Q. (BY MR. JONAS) InfoCom Search No. 57.

10 A. This is a videotape.

11 Q. Does it pertain to financial transactions in any way?

12 A. It does. It relates to financial transactions at the  
13 HLF.

14 MR. JONAS: I offer into evidence InfoCom Search  
15 No. 57?

16 THE COURT: Admitted.

17 Q. (BY MR. JONAS) HLF Search No. 33?

18 A. I am sorry. You said No. 33?

19 Q. HLF Search No. 33.

20 A. Documents relating to HLF financial transactions.

21 MR. JONAS: Offer into evidence HLF Search No. 33.

22 THE COURT: Admitted.

23 Q. (BY MR. JONAS) InfoCom Search No. 13?

24 A. Documents relating to HLF financial transactions.

25 MR. JONAS: I Offer into evidence InfoCom Search

1 No. 13.

2 THE COURT: Admitted.

3 MR. JONAS: InfoCom Search No. 12 I believe, Your  
4 Honor, I offered a little while ago.

5 THE WITNESS: This is a newspaper article.

6 Q. (BY MR. JONAS) InfoCom Search No. 12?

7 A. According to this list.

8 MR. JONAS: Then I will not offer that one if that  
9 is what it is.

10 Q. (BY MR. JONAS) Islamic Charity Account.

11 MR. JONAS: I believe that one I offered already.

12 THE COURT: You had offered 12 and 13. So are you  
13 withdrawing No. 12?

14 MR. JONAS: Yes, sir. I am withdrawing No. 12.

15 Q. (BY MR. JONAS) Islamic Relief Account, which may also be  
16 in, I believe. InfoCom Search No. 74.

17 A. Documents relating to HLF financial transactions.

18 MR. JONAS: I offer into evidence InfoCom Search  
19 No. 74.

20 THE COURT: Admitted.

21 Q. (BY MR. JONAS) HLF Search No. 45.

22 A. Documents relating to HLF financial transactions.

23 MR. JONAS: Offer into evidence HLF Search No. 45.

24 THE COURT: Admitted.

25 Q. (BY MR. JONAS) HLF Search No. 35.

1 A. Documents you relating to HLF financial transactions.

2 MR. JONAS: I Offer into evidence HLF Search No. 35.

3 THE COURT: Admitted.

4 Q. (BY MR. JONAS) InfoCom Search No. 14.

5 A. Documents relating to HLF financial transactions.

6 MR. JONAS: Offer into evidence InfoCom Search  
7 No. 14.

8 THE COURT: Admitted.

9 Q. (BY MR. JONAS) Agent Burns, just explain to us why there  
10 are various InfoCom search exhibits and HLF search exhibits  
11 that relate to financial transactions, how you broke it out.

12 A. Well, generally there is a separate exhibit if there is a  
13 separate item. For the financial schedules, we tried to  
14 combine all the materials from one search location that  
15 related to financial transactions with a particular entity  
16 into one exhibit.

17 Q. Okay. So if it is an HLF search number that is financial  
18 transactions, that particular one would relate to one  
19 particular schedule that we are going to talk about?

20 A. That is correct.

21 Q. Okay. Jenin Zakat Account No. 1?

22 A. That would be foreign bank record for the Jenin zakat,  
23 which is an entity with which the HLF had financial dealings.

24 Q. Same for Jenin Zakat Account No. 3?

25 A. That is correct.



1           MR. JONAS: Your Honor, I offer into evidence Jenin  
2 Zakat Account No. 1 and Jenin Zakat Account No. 3?

3           THE COURT: Admitted.

4 Q.    (BY MR. JONAS) HLF Search No. 37?

5 A.    Documents relating to HLF financial transactions.

6           MR. JONAS: I offer into evidence HLF Search No. 37.

7           THE COURT: Admitted.

8 Q.    (BY MR. JONAS) InfoCom Search No. 15?

9 A.    Documents relating to HLF financial transactions.

10          MR. JONAS: Offer into evidence InfoCom Search  
11 No. 15.

12          THE COURT: Admitted.

13 Q.    (BY MR. JONAS) Nablus Zakat Account No. 1 and Nablus  
14 Zakat Account No. 2, two separate exhibits?

15 A.    Those are bank account records for the Nablus zakat,  
16 which is an entity for which the HLF had financial dealings.

17          MR. JONAS: Offer into evidence Nablus Zakat Account  
18 No. 1 and Nablus Zakat Account No. 2.

19          THE COURT: Admitted.

20 Q.    (BY MR. JONAS) Tulkarm Zakat Account No. 1?

21 A.    That is a foreign bank record for an entity with which  
22 the HLF had financials transactions.

23          MR. JONAS: Offer into evidence Tulkarem Zakat  
24 Account No. 1.

25          THE COURT: Admitted.

1 Q. (BY MR. JONAS) InfoCom Search No. 18?

2 A. Those are financial documents relating to an entity with  
3 which the HLF dealt.

4 MR. JONAS: Offer into evidence InfoCom Search  
5 No. 18.

6 THE COURT: Admitted.

7 Q. (BY MR. JONAS) Qalqilia Zakat Account No. 1 and Qalqilia  
8 Zakat Account No. 3?

9 A. Those are bank records relating to an entity with which  
10 the HLF had financial dealings.

11 Q. Two separate accounts?

12 A. That is correct.

13 MR. JONAS: I offer into evidence Qalqilia Zakat  
14 Account No. 1 and Qalqilia Zakat Account No. 3.

15 THE COURT: Admitted.

16 MR. JONAS: Also Qalqilia Zakat Account No. 2.

17 THE COURT: Those are admitted.

18 Q. (BY MR. JONAS) HLF Search No. 40?

19 A. Financial documents relating to HLF transactions.

20 MR. JONAS: Offer into evidence HLF Search No. 40.

21 THE COURT: Admitted.

22 Q. (BY MR. JONAS) HLF Search No. 39?

23 A. Financial documents relating to HLF transactions.

24 MR. JONAS: Offer into evidence HLF Search No. 39.

25 THE COURT: Admitted. .

1 Q. (BY MR. JONAS) HLF Search No. 38?

2 A. Financial documents relating HLF transactions.

3 MR. JONAS: Offer into evidence HLF Search No. 38.

4 THE COURT: Admitted.

5 Q. (BY MR. JONAS) InfoCom Search No. 16?

6 A. Documents relating to HLF financial transactions.

7 MR. JONAS: Offer into evidence InfoCom Search  
8 No. 16.

9 THE COURT: Admitted.

10 Q. (BY MR. JONAS) InfoCom Search No. 17?

11 A. The same thing.

12 MR. JONAS: Offer into evidence InfoCom Search  
13 No. 17.

14 THE COURT: Admitted.

15 Q. (BY MR. JONAS) Tulkarem Zakat Account No. 3?

16 A. That is a foreign bank record for an entity with which  
17 the HLF had financial dealings.

18 MR. JONAS: Offer into evidence Tulkarem Zakat  
19 Account No. 3.

20 THE COURT: How do you spell that?

21 MR. JONAS: T-U-L-K-A-R-E-M.

22 THE COURT: Which ones did you offer?

23 MR. JONAS: Tulkarem Zakat Account No. 3.

24 THE COURT: Admitted.

25 MR. JONAS: Your Honor, I think that is all I have.

1 I appreciate the Court's patience. I think this will save  
2 time down the road. In the event that I missed one or two, I  
3 will just come back later on and ask if we can admit them.

4 THE COURT: All right.

5 MR. JONAS: If we can get back to the schedules,  
6 Payments to Islamic Charitable Society/Hebron schedule on the  
7 screen, please.

8 Q. (BY MR. JONAS) Agent Burns, could you just walk us  
9 through again and remind us how this schedule is set up?

10 A. Yes. This schedule deals specifically with HLF  
11 transactions, financial transactions with an entity called the  
12 Islamic Charitable Society of Hebron. And the columns are  
13 organized by date of the transaction the first column. The  
14 second column is the source, who the payment was from. And on  
15 this chart all of the payments will be from the Holy Land  
16 Foundation. The next column is like we saw in some of those  
17 earlier charts, for the authorization it will note either a  
18 check number or it will note that it was a wire transaction,  
19 and if certain individuals were linked to that transaction  
20 they are noted in this column. Next we have an amount column.  
21 Generally you will have one number indicating the amount of  
22 the transaction.

23 As we spoke about earlier, in the later years sometimes  
24 large transactions, large wire transfers were made to the  
25 HLF's foreign bank accounts. And from that smaller amounts

1 would be distributed to the ultimate recipient, so in that  
2 instance you may see a larger amount with a slash and then the  
3 smaller amount that actually ended up with the committee that  
4 is the subject of the chart.

5 Q. And how would you determine how much went from the HLF  
6 foreign account to the committee?

7 A. It could be -- We might look at the HLF foreign bank  
8 records, if those indicate what exactly went. Also we looked  
9 at the internal search warrant documents to see where they  
10 said the money was actually supposed to end up.

11 Q. Okay.

12 A. The next column is the destination. That is to whom the  
13 payment was made. And on this chart these should all be the  
14 same recipient, the Islamic Charitable Society of Hebron. And  
15 it notes there if there is a bank account affiliated with that  
16 committee that we could identify, it will be in this column as  
17 well.

18 Finally, the last column is your reference column. That  
19 has all the exhibits noted with page numbers where you can go  
20 and actually see the evidence that we used to create this  
21 specific transaction on this chart.

22 Q. On the top, the first transaction, May 1st, 1991 under  
23 the exhibit number where it says HLF Search No. 33.

24 A. Yes.

25 Q. Could you explain that in conjunction with the question I

1 asked you earlier about the search warrant material and how  
2 you organized it to support your charts?

3 A. Yes. There was a large volume of material that we  
4 gathered from the various search warrants, especially the HLF  
5 search warrant, that related to financial transactions. In  
6 order to try to make it more understandable, we tried to  
7 select all of the items that related to the HLF's financial  
8 transactions with the Islamic Charitable Society of Hebron and  
9 made those documents one exhibit. In this case that exhibit  
10 is HLF Search No. 33. So that exhibit is going to contain a  
11 number of HLF search warrant documents that will go to support  
12 what is stated in this schedule.

13 Q. So would there be any financial records from the search  
14 warrant pertaining to payments to any other zakat committee in  
15 HLF Search No. 33?

16 A. There could be, if a specific page from the search  
17 warrant material dealt with multiple transactions. So you may  
18 see a document that deals with HLF transactions with a number  
19 of entities on a specific page, but, you know, that is how it  
20 was.

21 Q. Would that also include, then, that particular document,  
22 as an example, of payment to Islamic Charitable Society of  
23 Hebron?

24 A. Yes.

25 Q. There is also InfoCom Search No. 13. Would you explain

1     that?

2     A.    Yes.  We did the exactly same thing with the InfoCom  
3     search warrant material.  We tried to take all documents that  
4     were seized in the InfoCom search warrant that related to  
5     transactions on this schedule and make them one exhibit.  In  
6     this case that exhibit would be InfoCom Search No. 13.

7     Q.    So, for example, when we go to another schedule we would  
8     see HLF search 34, and that would pertain to that particular  
9     zakat committee?

10    A.    That is correct.

11    Q.    Okay.  Let's look at -- Let's pick the transaction  
12    October 31st, 1991 for \$17,600 and look at the supporting  
13    documentation.

14           MR. JONAS:  If we can pull up InfoCom Search No. 13,  
15    page 10.

16    Q.    (BY MR. JONAS)  And can you explain that?

17    A.    Yes.  This document was again found at InfoCom, and it  
18    notes -- It is what they call a project summary report for the  
19    HLF, and on it it notes that it sent -- If you look at the  
20    bottom under payment method, full payment, amount granted  
21    \$17,600.  And if you look up above, the organization that was  
22    supposed to receive it under organization is the Islamic  
23    Charity Society at Hebron.  And below that it indicates what  
24    the money was supposed to go toward.

25           MR. JONAS:  And if we can turn to HLF Bank Account

1 No. 3, page 126.

2 Q. (BY MR. JONAS) And what is this item?

3 A. This is the actual check that was issued by Ghassan  
4 Elashi for the HLF transaction with the Islamic Charity  
5 Society of Hebron in the amount of \$17,600.

6 Q. Okay. This check is made out to cash, though.

7 A. That is correct.

8 Q. Okay. How do you know it went to the Islamic Charitable  
9 Society of Hebron?

10 A. There are several ways. Based upon the other documents  
11 referenced on this exhibit, it appears that they basically  
12 cashed the check and wire transferred the money over.

13 Q. And what do you see in paren next to the word cash?

14 A. It says Islamic Charity Society of Hebron.

15 Q. Pretty good clue?

16 A. That is one clue.

17 Q. Okay.

18 MR. JONAS: And if we can turn to HLF Bank Account  
19 No. 3, page 117.

20 Q. (BY MR. JONAS) And what is this?

21 A. This is the HLF's bank statement from that time period.

22 Q. Would the statement reflect the \$17,600 check?

23 A. It does. If you will look about the middle of the page,  
24 check No. 681, \$17,600.

25 MR. JONAS: If we can go back to the Schedule



1     Payments to IC/Hebron schedule.  Let's go to page 4.

2     Q.     (BY MR. JONAS)  Agent Burns, could you explain the double  
3     line that is in the middle of this page?

4     A.     Yes.  Again, these transactions are noted in  
5     chronological order, and we noted on the schedules the dates  
6     of the Hamas designation as a specially designated terrorist,  
7     as well as the Hamas designation as a foreign terrorist  
8     organization in a chronological order so that you can  
9     determine what transactions occurred prior to the designation  
10    and what transactions occurred after the designation.

11    Q.     Let's look at the first transaction right after the  
12    designation.  It has a tab on the right after the last column.

13    A.     I see that.

14    Q.     And what does that mean?

15    A.     In the indictment in this case, certain transactions were  
16    listed as part of the indictment, the charges that were made.  
17    If one of these transactions relates specifically to a count  
18    in the indictment or an overt act in the indictment, it is  
19    noted to the right of that transaction.

20           In this instance, this particular transaction on April  
21    3rd, 1995 relates to Count 11 of the indictment, Overt Act 1,  
22    and Count 22, Overt Act 1.

23    Q.     Why don't we look at the supporting documentation.

24           MR. JONAS:  If we can pull up HLF Search No. 33,  
25    please, page 14.

1 Q. (BY MR. JONAS) What is this on the screen?

2 A. This is an HLF request for transfer of funds, and it  
3 notes the date April 3rd, 1995, the amount \$30,000, and the  
4 recipient Young Men Muslim Association, care of Islamic  
5 Charity S, which would be Islamic Charity Society in Hebron,  
6 signed by Ghassan Elashi and stamped Shukri Abu Baker.

7 MR. JONAS: Let's go to HLF Bank Account No. 1, page  
8 627, please.

9 Q. (BY MR. JONAS) Agent Burns, while we are waiting for  
10 that page to come up, were most of the transactions in the  
11 form of checks or wire transfers?

12 A. A majority were in the form of wire transfers.

13 Q. What is this document we are seeing here?

14 A. This is a copy of the wire transfer.

15 Q. Okay. And how do you know that this copy matches with  
16 that same \$30,000 transaction?

17 A. Well, you can look at the bank statement for one, but  
18 actually if you are looking at this particular form, you can  
19 see the send date, and it says April 3rd, 1995. And if you  
20 look down a little bit farther it says "Okayed per S. Baker,"  
21 which would be the Defendant Shukri Abu Baker. And continuing  
22 on down you can see the amount of the transaction is \$30,000.

23 And I believe if you go on to the next page of the wire,  
24 if you look at the bottom it indicates the originator of the  
25 wire, which is the Holy Land Foundation, and it gives bank

1 information, and then it shows the beneficiary at the bottom,  
2 the Islamic Charity Society.

3 Q. Okay. And then the last item marked on this supporting  
4 documentation is HLF Bank Account No. 1, page 621. And what  
5 is this?

6 A. This is a copy of the bank statement during that time  
7 period.

8 Q. Okay.

9 MR. JONAS: If we can go back to the schedule. If  
10 we can go to page 6, please.

11 Q. (BY MR. JONAS) Now, there is another double line on this  
12 page.

13 A. Yes.

14 Q. What is this double line?

15 A. This double line indicates the Hamas designation as a  
16 foreign terrorist organization, which occurred on October 8th,  
17 1997, which is different from the Hamas designation as a  
18 specially designated terrorist which took place on January  
19 23rd, 1995.

20 Q. Okay. Agent Burns, let's look -- If you see on the  
21 second transaction, and then all the transactions going down  
22 under the destination payment to column.

23 A. Yes.

24 Q. There were names in bold.

25 A. Yes.

1 Q. What does that mean?

2 A. If certain individuals from the recipient company could  
3 have been identified as being directly connected to this  
4 particular transaction, their names are noted under the  
5 destination section.

6 For example on the November 7th, 1997 transaction that  
7 you see there, you see an individual's name in bold under the  
8 destination column. That individual was linked directly to  
9 that transaction. He is a part of the Islamic Charity of  
10 Hebron. And the documents referenced in the exhibit column  
11 will show you how he is connected to that transaction.

12 MR. JONAS: Let's look at that. HLF Search No. 33,  
13 page 54, please.

14 Q. (BY MR. JONAS) And what is this document?

15 A. This is a fund transfer notification from the HLF to the  
16 Islamic Charity Society of Hebron for the transaction  
17 referenced here in the amount of \$21,699. At the bottom is a  
18 receipt.

19 Q. Is this document translated?

20 A. It is.

21 MR. JONAS: If we can go to page 55.

22 Q. (BY MR. JONAS) And what is this?

23 A. This is the translation of that document along with the  
24 receipt at the bottom. And you can see at the bottom that the  
25 individual Saleh Salim Abdel Nabi signed the receipt on behalf

1 of the Islamic Charity Society of Hebron. Therefore, his name  
2 appears in the destination column.

3 Q. Okay.

4 MR. JONAS: Let's go to HLF Bank Account No. 1, page  
5 1067.

6 Q. (BY MR. JONAS) And what is this document?

7 A. This would be the bank statement for that time period for  
8 the HLF.

9 Q. Without going through -- Are the bank statements multiple  
10 pages?

11 A. Yes, they are.

12 Q. We won't go through every page.

13 Did you also look at the bank account of the recipient,  
14 if you had the bank account?

15 A. If we had those records available to us, we analyzed  
16 those as well.

17 MR. JONAS: Let's go to Islamic Charity Account,  
18 page 63.

19 Q. (BY MR. JONAS) What is this item?

20 A. This would be the item from the Islamic Charity Society  
21 of Hebron's account that indicated the receipt of that amount  
22 of money.

23 Q. Do you know if this page was translated?

24 A. It was.

25 MR. JONAS: Let's go to the next page, please.

1 Q. (BY MR. JONAS) And what is this?

2 A. This is the translation of that particular item in the  
3 Islamic Charity Society's bank account records showing -- If  
4 you will look on November 8th, 1997, a wire received in the  
5 amount of \$21,684.

6 Q. The wire received is about \$15 short of the wire sent.  
7 Do you have any idea why?

8 A. Wire transfer fees, generally.

9 Q. Okay.

10 MR. JONAS: Let's go back to the schedule, please.  
11 Let's go to page 8.

12 Q. (BY MR. JONAS) Do you see -- At the bottom half, do you  
13 see there is a transaction on August 21st, 1998?

14 A. I do.

15 Q. This is after or before Hamas was designated?

16 A. This is after Hamas was designated.

17 Q. On the far right side of this column it says Count 3 on  
18 this row. And what is that?

19 A. That means that this particular transaction is relevant  
20 to Count 3 in the indictment in this case.

21 MR. JONAS: Let's look at HLF Search No. 33, page  
22 148, please.

23 Q. (BY MR. JONAS) What is this item?

24 A. This item is a request for transfer of funds from the HLF  
25 to the Islamic Charity Society of Hebron in the amount of

1     \$11,686. And if you will look -- Do you want me to explain  
2     how we get to the ultimate amount?

3     Q. Sure, yes.

4     A. Often you will see multiple requests for transfer of  
5     funds in smaller amounts, and to the same entity on the same  
6     date for different purposes. And if you add all those up you  
7     will come up with the total. This is the first page of  
8     several. And if you will note, to the right they had noted  
9     that the total of these wire transfers was going to be  
10    \$24,211. So if you scroll on through there should be several  
11    more of these, and if you total them up they add up to this  
12    amount.

13           MR. JONAS: Let's look at HLF Bank Account No. 1,  
14    page 1363.

15    Q. (BY MR. JONAS) What is this document?

16    A. This is the record of the wire transfer itself.

17    Q. Does the date match up on the top right hand side?

18    A. It does.

19           MR. JONAS: If you can scroll down, and enlarge the  
20    center.

21    Q. (BY MR. JONAS) Do you see the amount for the total wire?

22    A. Yes, the amount being \$24,211.

23    Q. And does that match the amount on the schedule?

24    A. It does.

25           MR. JONAS: And let's look at the Islamic Charity

1 Account, page 81.

2 Q. (BY MR. JONAS) Agent Burns, you have the schedule in  
3 front of you. Is that correct?

4 A. I do.

5 Q. Am I identifying every exhibit or document identifying  
6 this transaction?

7 A. No, you are just selecting certain ones. There are more  
8 referenced in there that you can look at.

9 Q. What is this item before us, Islamic Charity Account,  
10 page 81, I believe?

11 A. This is the Arabic version of the item that indicates the  
12 deposit of that money to the Islamic Charitable Society's  
13 account.

14 MR. JONAS: Page 82, please.

15 THE WITNESS: This is the translation.

16 Q. (BY MR. JONAS) And where do you see the wire of \$24,211?

17 A. Okay. If you will look are at the August 23rd, 1998  
18 entry, it notes that a wire was received in the amount of  
19 \$24,196.

20 Q. Okay. Agent Burns, did you create a schedule of payments  
21 to an entity known as Nablus zakat committee?

22 A. I did.

23 Q. Do you have that schedule before you?

24 A. I do.

25 Q. Is this schedule a summary of the search warrant material



1 and bank records which support the transactions of this entity  
2 from the Holy Land Foundation?

3 A. Yes.

4 Q. And those items are now in evidence, the supporting  
5 items?

6 A. They are.

7 MR. JONAS: Your Honor, I would offer into evidence  
8 what has been marked as Payments to Nablus Zakat Committee.  
9 On the sticker it says Payments to Nablus Z.

10 THE COURT: Any objections? The same?

11 MS. HOLLANDER: Yes, Your Honor.

12 THE COURT: That is admitted.

13 Q. (BY MR. JONAS) Agent Burns, is there anything different  
14 about the way this chart is set up from the last one?

15 A. No. This chart is set up the same way as the last one.

16 Q. Okay. Why don't we look at a transaction that is on the  
17 page, October 31st, 1991 for \$11,600.

18 A. Okay.

19 Q. Where did this one go to?

20 A. This payment went to the Nablus zakat committee.

21 Q. Do you see where it says -- Under destination it says  
22 "Cash (Nablus zakat committee), then it says "Arab Bank UK"  
23 and "Tulkarem account" underneath that. Can you explain that?

24 A. Yes. There was -- Some of these committees have a  
25 relationship, and in this instance the money actually went to

1 a bank account under the Tulkarem zakat committee's name.

2 Q. How do you know or why do you have it under the Nablus  
3 zakat committee schedule?

4 A. Because the search warrant material and the note on the  
5 check indicate that the money was ultimately determined for  
6 the Nablus zakat committee.

7 Q. This says Tulkarem zakat had an account at the Arab Bank  
8 U.K. What and where is that?

9 A. That is in the United Kingdom in England, I believe in  
10 London.

11 Q. Did several of the zakat committees have bank accounts in  
12 London?

13 A. That would be in the early 1990s they did.

14 MR. JONAS: InfoCom search page 56, please. I am  
15 sorry. InfoCom Search No. 15, page 56.

16 Q. (BY MR. JONAS) What is this document?

17 A. This is a piece of correspondence in Arabic taken from  
18 InfoCom relating to this transaction.

19 Q. Was this translated?

20 A. It was.

21 MR. JONAS: If we can turn to the next page, please.

22 Q. (BY MR. JONAS) And what is this?

23 A. This is notification of a transfer of money from the HLF  
24 signed by Haitham Maghawri. The date at the top is November  
25 5th, 1991, and it is addressed to the Nablus zakat committee.

1 Would you like me to read it?

2 Q. No.

3 Is this the translation from the prior page.

4 A. It is.

5 MR. JONAS: Okay. If we can go to HLF Bank Account  
6 No. 3, page 122, please.

7 Q. (BY MR. JONAS) I am sorry. Before I ask you a question  
8 about this, does the dollar amount in that last correspondence  
9 match up with the dollar amount on the schedule?

10 A. It does.

11 Q. What is this on the screen?

12 A. This is a check signed by Ghassan Elashi on behalf of the  
13 Occupied Land Fund, which is the HLF, to cash for the same  
14 amount, \$11,600, noted for the Nablus zakat committee on  
15 October 31st, 1991.

16 Q. Okay. And again, does the amount match the  
17 correspondence as well as what is on your schedule?

18 A. It does.

19 MR. JONAS: Let's go to page 4, please, the second  
20 transaction. I am sorry. My mistake. Back to the schedule  
21 Payments to Nablus Zakat.

22 Q. (BY MR. JONAS) The second transaction from the top dated  
23 November 20th, 1996, this is after Hamas is designated?

24 A. That is correct.

25 Q. Without going to it on the prior page of the schedule, do

1     you have this double line identifying the date that Hamas is  
2     designated?

3     A.    Yes, we do.

4     Q.    Is that on every schedule you have?

5     A.    Yes.

6     Q.    I don't need to keep asking you about it, do I?

7     A.    Yes.

8     Q.    Yes, I do?

9     A.    No.

10    Q.    Okay.  This particular payment, what is the date and the  
11    amount?

12    A.    The November 20th, 1996 transaction is from the HLF to  
13    the Nablus zakat in the amount of \$8,023.

14    Q.    And this one under the authorization says, "Wire okay per  
15    policy, Mohamad Tahir."  Do you know who that is or what that  
16    means?

17    A.    It is -- We would have to pull up the item to really  
18    explain specifically what okay per policy means, but Mohamad  
19    Tahir was a representative of the HLF.

20           MR. JONAS:  If we can pull up HLF Search No. 37,  
21    page 44 of that exhibit.

22    Q.    (BY MR. JONAS)  This is an Arabic document.  Was it  
23    translated?

24    A.    It was.

25           MR. JONAS:  Go to the next page, please.

1 Q. (BY MR. JONAS) And what does that document say?

2 A. It is addressed to the Nablus zakat committee indicating  
3 that \$8,023 was transferred for social services, and it is  
4 dated November 15th, 1996.

5 MR. JONAS: Okay. If we can go to HLF Bank Account  
6 No. 1, page 873.

7 Q. (BY MR. JONAS) What is this document?

8 A. This is the wire transfer of that amount of money on that  
9 date.

10 Q. Where do you see the amount?

11 A. Down at the bottom. And then on the second page the  
12 sender and recipient are noted at the bottom. It says that  
13 the originator is the Holy Land Foundation and the beneficiary  
14 is the Nablus zakat committee, and it gives their account at  
15 the bottom.

16 MR. JONAS: If we can go to Nablus Zakat Account No.  
17 2, page 45.

18 Your Honor, I am not sure if that account has been  
19 scanned in, so I will move to another transaction.

20 THE COURT: All right.

21 MR. JONAS: It is there.

22 Q. (BY MR. JONAS) What is this?

23 A. This is the statement from the account of the Nablus  
24 zakat indicating this transaction. This part is in Arabic and  
25 then the next is in English.

1 MR. JONAS: The next page, please.

2 THE WITNESS: And you will see it notes again for  
3 the Nablus zakat committee that there was a wire on November  
4 24th, 1996 with a credit of \$8,009.98.

5 Q. Okay.

6 MR. JONAS: If we can go back to the schedule for  
7 the payments in Nablus zakat, and go to page 7.

8 Q. (BY MR. JONAS) Do you see, Agent Burns, there is a  
9 transaction on April 18th, 2000?

10 A. I do.

11 Q. Who is that transaction from? Who is the originator?

12 A. The Holy Land Foundation. However, it is from their  
13 foreign bank account.

14 Q. Were you able to trace that wire back to Dallas as  
15 starting in Dallas?

16 A. Not this one in particular.

17 Q. Okay. Did you find any supporting documentation for it  
18 in any of the search warrant material?

19 A. I wasn't able to link it specifically to specific  
20 documentation, so that the only exhibit referenced in this is  
21 the actual item out of the foreign bank record.

22 MR. JONAS: Let's look at HLF Foreign Account No. 4,  
23 page 336.

24 Q. (BY MR. JONAS) I realize that it is in Arabic, but do  
25 you know what that is?

1 A. I do.

2 Q. What is that?

3 A. This would be the check out of the HLF foreign bank  
4 record for this transaction, and the next page should be the  
5 translation.

6 MR. JONAS: The next page, please.

7 Q. (BY MR. JONAS) So that indicates what?

8 A. It indicates the transaction on April 18th, 2000 in the  
9 amount of \$10,583 paid to gentlemen of the Nablus alms  
10 committee, which alms is a different translation for the word  
11 zakat.

12 Q. Did you create a schedule of payments to an entity known  
13 as the Tulkarem zakat committee?

14 A. Yes.

15 MR. JONAS: Your Honor, I offer into evidence  
16 Government's Exhibit Payments to Tulkarem Zakat Committee, or  
17 payments to Tulkarem Z, as the sticker reflects.

18 MR. WESTFALL: Your Honor, just to be clear, these  
19 are being conditionally admitted subject to objections?

20 THE COURT: Subject to your being able to review  
21 them, and we will take objections at that time.

22 MR. WESTFALL: Very well.

23 THE COURT: And that is admitted.

24 MR. JONAS: If we can put the first page on the  
25 screen.

1 Q. (BY MR. JONAS) Agent Burns, do you see the transaction  
2 March 14th, 1994?

3 A. I do.

4 Q. And what does that indicate?

5 A. That indicates that the HLF sent \$8,075 to the Tulkarem  
6 zakat committee on March 14th, 1995.

7 Q. All right. What account did it go to? Where was the  
8 account?

9 A. The account was in the United Kingdom, in England.

10 MR. JONAS: Let's go to HLF Search No. 39, page 11.

11 Q. (BY MR. JONAS) What is this document?

12 A. Well, this is -- The way the records were presented to  
13 us, the electronic payments advice, often they were like  
14 multiple ones per page, so the one on top here is the one that  
15 is relevant to this transaction. Okay? And it shows that the  
16 HLF wired \$6,075 to -- If you will look up here, it says to  
17 Arab Bank, London, England, in favor of, and there is an  
18 account number and Tulkarem zakat committee. So it shows that  
19 the HLF sent the Tulkarem zakat committee \$6,075 on March  
20 14th, 1994, and that was to a bank account in London, England.

21 Q. This document itself, where did it come from?

22 A. This came from the HLF Dallas office from the HLF search  
23 warrants.

24 MR. JONAS: If we go to Tulkarem Zakat Account No.  
25 1, page 65.



1 Q. (BY MR. JONAS) Agent Burns, what is this?

2 A. This is an item from the Tulkarem's bank account there in  
3 London, England indicating the receipt of that money that we  
4 were talking about.

5 Q. This identifies it -- This one identifies Holy Land  
6 Foundation. Correct?

7 A. It does.

8 Q. Agent Burns, on the last page of the schedule is there a  
9 total what was paid to the Tulkarem zakat from the Holy Land  
10 Foundation?

11 A. Yes. On most of the schedules you will see at the very  
12 end there will be a total amount sent from the HLF to the  
13 zakat committee, in this instance to the Tulkarem zakat  
14 committee.

15 Q. Does that total amount include both payments made before  
16 Hamas was designated a terrorist organization and after?

17 A. It does.

18 Q. What is the total paid to the Tulkarem zakat committee?

19 A. If you want to go to the last page, it is \$366,585. That  
20 is the amount that I could identify as having gone to the  
21 Tulkarem zakat committee.

22 MR. JONAS: If we can jump back to ICS Hebron  
23 schedule and go to the last page as well.

24 Q. (BY MR. JONAS) What is the total amount that the HLF  
25 paid to the ICS Hebron?

1 A. Between April of 1991 and -- Excuse me. I have the wrong  
2 chart. Between May of 1991 and November 2001, the total was  
3 \$1,674,594.

4 Q. And jumping to the Nablus zakat committee chart, on the  
5 last page what was the total?

6 A. From May of '91 through October of 2001, \$475,715.

7 Q. Did you create a chart of payments to the Jenin zakat  
8 committee?

9 A. I did.

10 MR. JONAS: Your Honor, at this time I would offer  
11 into evidence Government's Exhibit Payments to Jenin Zakat or  
12 Jenin Z.

13 THE COURT: Okay. Just one of those? One chart?  
14 That is admitted.

15 MR. JONAS: Thank you, sir.

16 MR. JONAS: If we can put the first page on the  
17 screen, please.

18 Q. (BY MR. JONAS) Agent Burns, if we walk through a sample  
19 of some of these transactions, would we be seeing the same  
20 documentation as we saw with the other schedules?

21 A. Yes. The schedule is set up just like the others, and  
22 the same types of documentation are used to support what is  
23 asserted in this chart.

24 Q. Agent Burns, the authorization for many of these  
25 transactions, and I am looking at the Jenin zakat committee

1 chart in particular, often seem to be either Ghassan Elashi or  
2 the Defendant Shukri Abu Baker. Is that accurate?

3 A. That is --

4 Q. Let me rephrase the question. I am sorry. Who  
5 authorized most of the transactions from the HLF to these  
6 zakat committees?

7 A. A majority of the transactions were authorized by either  
8 Shukri Abu Baker and/or Ghassan Elashi.

9 Q. Did you see other names on occasion?

10 A. Yes.

11 Q. In particular, in this chart we see the name Basman  
12 Elashi on some of the first few schedules, first few  
13 transactions. Do you know who Basman Elashi is?

14 A. I do.

15 Q. Does he have a relationship to the HLF?

16 A. He does.

17 Q. As what?

18 A. Well, during the early years Basman Elashi was -- we see  
19 him signing some of the HLF checks. He obviously had some  
20 power of authority over some of the financial transactions for  
21 the HLF.

22 In addition, I believe on one of the IAP records that we  
23 have already introduced, he is listed as an officer. And also  
24 he is noted as having involvement with the ICC, which was the  
25 predecessor to InfoCom, the company that Ghassan Elashi was

1       affiliated with. And finally, he is the brother of the  
2       Defendant Ghassan Elashi.

3               MR. JONAS: If we can jump to page 3 on this  
4       schedule.

5       Q.     (BY MR. JONAS) Do you see in this page all the  
6       authorizations say Sam Baker?

7       A.     I do.

8       Q.     Who is Sam Baker?

9       A.     That is the Defendant Shukri Abu Baker. For a short time  
10      during the early years he used the name Sam occasionally.

11      Q.     Okay.

12              MR. JONAS: And going to the last page, page 9.

13      Q.     (BY MR. JONAS) How much did the Holy Land Foundation pay  
14      to the Jenin zakat committee?

15      A.     Between May of 1991 and October of 2001, we were able to  
16      identify \$554,500.

17      Q.     Did you create a schedule of payments to the Ramallah  
18      zakat committee?

19      A.     Yes, we did.

20      Q.     By the way. These zakat committees we have identified so  
21      far, where are they located?

22      A.     The ones that we have been discussing this afternoon are  
23      located in the West Bank.

24      Q.     Okay.

25              MR. JONAS: Your Honor, at this time I would offer

1       into evidence Government's Exhibit Payments to Ramallah Zakat  
2       Committee.

3               THE COURT:   Admitted.

4               MR. JONAS:   If we can put the first page on the  
5       screen.

6       Q.     (BY MR. JONAS)  Agent Burns, again, is this chart set up  
7       the same way as the other charts?

8       A.     It is.

9       Q.     Okay.  And Agent Burns, how much did the Holy Land  
10      Foundation pay in total to the Ramallah zakat committee?

11      A.     From September 1991 October of 2001, we were able to  
12      track \$494,252 to the Ramallah zakat.

13      Q.     And Agent Burns, the schedules we looked at so far all  
14      end in 2001?

15      A.     That is correct.

16      Q.     Why is that?

17      A.     Because the HLF ceased operations in December of 2001.

18      Q.     Agent Burns, did you create a schedule of payments to the  
19      Qalqilia zakat committee?

20      A.     We did.

21      Q.     Could you spell Qalqilia?

22      A.     There are is several ways you may see it spelled.  The  
23      way we have it here is Q-A-L-Q-I-L-I-A, but you will often see  
24      it spelled with a Y instead of an I.

25              MR. JONAS:   Your Honor, at this time I would offer

1       into evidence Government's Exhibit Payments to Qalqilia Zakat  
2       Committee schedule.

3               THE COURT:   Admitted.

4       Q.     (BY MR. JONAS)   Agent Burns, what is the total amount  
5       that the HLF paid to the Qalqilia zakat committee?

6       A.     From February of 1992 October of 2001, we were able to  
7       track \$295,187.

8       Q.     And just for clarification purposes, do you see where it  
9       says in the exhibit column HLF Search No. 40?

10      A.     I do.   I see it.

11      Q.     Is that all the internal search warrant material that was  
12      seized from the HLF pertaining to the financial transactions  
13      to the Qalqilia zakat committee?

14      A.     It is all the records that relate to the ones that we  
15      found relevant in this schedule right here.

16      Q.     All right.   Agent Burns, did you create a payment of  
17      payments to the Islamic Science and Culture Committee?

18      A.     Yes.

19               MR. JONAS:   Your Honor, I would offer into evidence  
20      Government's Exhibit Payments to Islamic Society Science and  
21      Culture Committee.

22               THE COURT:   Admitted.

23               MR. JONAS:   If we can put the first page on the  
24      screen, please.

25      Q.     (BY MR. JONAS)   Agent Burns, what time period and how

1 much money did the Defendants HLF pay to the Islamic Science  
2 and Culture Committee?

3 A. From May 1st, 1991 through July 18th, 1996 we were able  
4 to track \$485,468.

5 Q. There were no payments after Hamas was designated as a  
6 foreign terrorist organization. Were there any payments made  
7 after it was designated as a specially designated terrorist?

8 A. Yes.

9 MR. JONAS: Go back one page, please.

10 Q. (BY MR. JONAS) Are those three of the four payments on  
11 this page?

12 A. Yes. There were four payments made that we were able to  
13 track after the designation of Hamas as an SDT, a specially  
14 designated terrorist.

15 Q. Agent Burns, did you make a schedule of payments to the  
16 Islamic Society?

17 A. I did.

18 Q. Did we cover that one already in your testimony?

19 A. Islamic Society of Gaza, no, we did not.

20 Q. Do you have that schedule before you?

21 A. I do.

22 Q. Agent Burns, what is the full title of this schedule?

23 A. The title or the sticker?

24 Q. The title.

25 A. Payments to Islamic Society/Islamic Association of Gaza.

1 Q. Why does it have two names?

2 A. I think I testified earlier that the Arabic word that  
3 translates into society also translates into association, so  
4 often you will see this entity referred to as the Islamic  
5 Society of Gaza and the Islamic Association of Gaza.

6 MR. JONAS: Your Honor, at this time I would offer  
7 into evidence Government's Exhibit Payments to Islamic  
8 Society/Islamic Association of Gaza. Just for the record, the  
9 exhibit sticker says Payments IS Associate Gaza.

10 THE COURT: Okay. That is admitted.

11 MR. JONAS: Put the first page on the screen.

12 Q. (BY MR. JONAS) Agent Burns, what time period and how  
13 much in total did the HLF pay to the Islamic Society/Islamic  
14 Association of Gaza?

15 A. From November of 1992 through August 23rd of 2001, we  
16 were able to track \$201,196, plus an additional 68,792 Israeli  
17 shekels.

18 Q. Just so we are clear, does the \$201,000 include the  
19 68,000 converted into dollars?

20 A. No, it does not.

21 Q. Agent Burns, did you create a schedule of payments to  
22 Bethlehem orphan society?

23 A. Yes, we did.

24 Q. Do you have that before you?

25 A. I do not believe I have that one in front of me.



1 MR. JONAS: Your Honor, if I can approach?

2 THE COURT: Yes.

3 Q. (BY MR. JONAS) Is that based upon the same records, bank  
4 accounts, search warrant material that you testified about?

5 A. Yes.

6 MR. JONAS: Your Honor, at this time I would offer  
7 into evidence Government's Exhibit Payments to Bethlehem  
8 Orphan Society.

9 THE COURT: Admitted.

10 MR. JONAS: If you can put the first page on the  
11 screen, please.

12 Q. (BY MR. JONAS) Agent Burns, what time period and how  
13 much in total did the HLF pay to the Bethlehem orphan society?

14 A. From June of 1991 through October of 2001, we were able  
15 to track \$429,006.

16 Q. Okay.

17 MR. JONAS: One moment, Your Honor.

18 Your Honor, given the hour, I am at a real good breaking  
19 point.

20 THE COURT: Let's break here for the day.

21 Be back at 9:00 tomorrow morning. Please recall the  
22 instructions that we have been over.

23 (Whereupon, the jury left the courtroom.)

24 MR. JONAS: Your Honor, I am just about finished  
25 with Agent Burns. I didn't want to pass her now because I

1 wanted to make sure I didn't miss anything. So if I pass her  
2 in the morning, we need to deal with the issue of the  
3 Defendants' exhibits. I don't know if you want to do that  
4 tonight.

5 THE COURT: We can do that in the morning. Be back  
6 at 8:30 in the morning, and go ahead and email to Jennifer  
7 your objections. Do you have their list?

8 MR. JONAS: We have their list.

9 THE COURT: So email us your objections so that I  
10 can go ahead and start taking a look at those, and we will  
11 take those up at 8:30 in the morning.

12 I was a little confused when you started going through  
13 that list of exhibits. You need to go back and get that in a  
14 better -- You were bouncing around back and forth. Get that  
15 in a better format. But some of those are on the list you  
16 provided to the Defense. Right?

17 MR. JONAS: Most if not all of them.

18 THE COURT: But you said some of them were not. Did  
19 I understand that?

20 MR. JONAS: No, I believe all of them were. I think  
21 there was one document I showed Agent Burns this afternoon  
22 that I informed Ms. Hollander of this morning.

23 THE COURT: That was new?

24 MR. JONAS: That was new, that I wasn't planning on  
25 showing Agent Burns when I created that list. I think other

1       than that, I think everything was on that list.

2               MS. HOLLANDER: Your Honor, we just didn't -- He had  
3       said that there were a lot of them that were just going to be  
4       offered and then we were going to deal with later, so we  
5       didn't deal with them yet, because we weren't able to deal  
6       with all of them. There is a huge amount of documents for us  
7       to deal with.

8               THE COURT: It is true, except you have had them now  
9       since Sunday. I thought maybe some of this wasn't on the  
10      list, but if it has been there since Friday when you mailed  
11      the list to everybody. Of course, I didn't know that either,  
12      and it is confusing, just to format.

13              MS. HOLLANDER: It may have been misunderstanding,  
14      Your Honor, but I thought we needed to deal with the ones that  
15      we were going to deal with this time since she is not going to  
16      come back for I guess --

17              THE COURT: Right. But here at the end, obviously,  
18      he has been dealing with some of those, and if you --

19              MS. HOLLANDER: We didn't understand he was going to  
20      do that. That was the confusion. We thought he was going to  
21      offer them and we were going to deal with them later. That  
22      was the confusion that I think Ms. Moreno was explaining also.

23              MR. JONAS: Your Honor, I explained to Ms. Hollander  
24      in an email -- I am not blaming anybody. Apparently there is  
25      a misunderstanding. I thought I was clear in the email to

1 her, and I thought I was clear earlier when I spoke with  
2 Defense counsel about what my plan was.

3 My understanding of what their concern was that I was  
4 going to get into Agent Burns -- the substance of the zakat  
5 committees in that their relationship to Hamas. That is her  
6 second testimony. All I wanted to do today was just to show  
7 that the HLF is sending money to the zakat committees to take  
8 care of that, so the jury can see, "Okay. Now we have heard a  
9 little bit about zakat committees through Doctor Levitt. Now  
10 we see HLF is sending some money there," and later on we will  
11 get into the meat --

12 THE COURT: I think it wasn't clear. Frankly, I  
13 wasn't sure what you were going to do either, so it was  
14 unclear I think to everybody. But you are about through with  
15 that part of it, then?

16 MR. JONAS: Yes, sir. I just want to make sure I  
17 haven't missed anything, and then if I have I will cover it  
18 first thing in the morning. If I have not missed anything, I  
19 will pass her.

20 THE COURT: Go back through and group those  
21 exhibits. You know, you bounced back and forth, InfoCom  
22 Search and then go to something else and come back to InfoCom  
23 and back to HLF. Just get us a list of everything that is  
24 there. That may be what you have here. I don't know. I  
25 couldn't keep up with the way you were going.

1           MR. JONAS: I apologize.

2           THE COURT: I am going to have to go back and do  
3 that. But I would rather you just furnish me something like  
4 that, and then I can go back and check that and make sure what  
5 is in is in, and that way I will have a good record of it.

6           MR. JONAS: Yes, sir. There is a method to that  
7 madness. I know it seems like it is crazy, but they all  
8 relate -- I did it by zakat committee.

9           THE COURT: Right. But when you are admitting them,  
10 it is just easier -- I mean, nobody knew that method at the  
11 time, and it was just very confusing.

12          MR. JONAS: I understand, sir. I also realize it  
13 was very boring for the jury.

14          THE COURT: That, too. But I mean, it just made it  
15 hard for us, I think for everybody to keep up in terms of what  
16 was going on in terms of just admitting them. Just get us a  
17 better form for that.

18          Go ahead and get your objections to us and to counsel,  
19 and then we will take that up at 8:30 in the morning.

20          MR. WESTFALL: You weren't the only one confused,  
21 Your Honor. The representation that was made, you know,  
22 misunderstandings aside, was that she was going to say, "Oh,  
23 yeah, basically those are the schedules," and then we are done  
24 with that. But they went way into those schedules, and I am  
25 afraid that that is all the evidence that they intend to put

1 on about what is in those schedules.

2 And I mean, are you going to revisit those schedules in  
3 front of the jury?

4 MR. JONAS: First of all, Mr. Westfall, I thought I  
5 was very, very clear in my email to Ms. Hollander, and I can  
6 produce that email to every Defense attorney as to my  
7 intention. I did not mislead any defense attorney in this  
8 case as to what I was doing. I clearly explained myself, and  
9 I believe I lived up to my explanation, one.

10 Two, yes, we are going through the schedules. We are not  
11 done with them.

12 MR. WESTFALL: Okay. It seemed like a pretty in  
13 depth bridge. That is all. And so I was concerned about a  
14 scope objection later on. And also some of the stuff that was  
15 in those schedules is going to be objected to, and I mean,  
16 they were being published all over the place.

17 THE COURT: They were. But those schedules were on  
18 that list, though. That is the concern that I had. And so,  
19 you know, I had asked for objections on everything that was on  
20 the list and I didn't get any, so I assume you had looked at  
21 those. You have had them now for a week almost.

22 MR. WESTFALL: I mean, that is I guess the root of  
23 the misunderstanding. There are an awful lot of exhibits on  
24 there, and all those different classes, and then the schedules  
25 that --

1           THE COURT: Right. And I understand that, but like  
2 we discussed the other day, this isn't the first time you have  
3 seen these exhibits. You had an exhibit list long ago, and of  
4 course you had them the last time. So none of this is new  
5 except maybe one or two today.

6           MR. WESTFALL: The schedule has been changed.

7           MS. HOLLANDER: It has been changed considerably,  
8 Your Honor.

9           MR. JONAS: If I can address this, they had the  
10 schedules for a long time. The changes that were made in the  
11 schedules, some of the page numbers were off so we corrected  
12 those items. But the substance of the transactions have been  
13 the same since we turned over to them, you know, prior to  
14 trial.

15          THE COURT: Mr. Dratel?

16          MR. DRATEL: My understanding back from when we  
17 received this last weekend was that a list -- the 13-page list  
18 of exhibits was that essentially the last two pages were not  
19 going to be part of her testimony this time, but really would  
20 be admitted in terms of housekeeping, and as a result there  
21 was less reason to be substantively concerned with those  
22 because the volume of exhibits was so many to begin with. I  
23 am not suggesting that we have gone beyond that, or what the  
24 intention was. What I am suggesting is that those were  
25 not -- I didn't interpret that as meaning that we were going

1 to get into the admissibility of those in the detailed level.

2 THE COURT: But he has been saying all along,  
3 regardless of the misunderstanding, and I think I was confused  
4 as well as to how much you were going to get into them, but he  
5 was saying all along he wanted to introduce them and get them  
6 out of the way.

7 MR. DRATEL: But purely a technical matter and not  
8 an admissible matter.

9 THE COURT: Admissibility is admissibility. If you  
10 are going to object, that would be the time to do it. Anyway,  
11 I assume admissibility -- We were going to deal with  
12 admissibility issues.

13 MR. JONAS: If I could just address that. The last  
14 two pages of the list were the items that I entered into  
15 evidence before I even started the schedules, and she did not  
16 testify about any of that, so you are correct in your  
17 assumption. The schedule and the supporting documentation for  
18 the schedules were before those last two pages. And I noted  
19 on the list where it was going to be purely -- And that is  
20 what it was. So I don't think I deviated from what I told  
21 you.

22 THE COURT: Okay. All right.

23 See you back at 8:30 in the morning.

24 MR. DRATEL: May we approach on a scheduling matter?

25 THE COURT: Sure. Come on up.



1           THE REPORTER: Mr. Dratel, do you want this on the  
2 record?

3           MR. DRATEL: It doesn't need to be.

4           (discussion at the bench, out of the hearing of the  
5 reporter.)

6           THE COURT: We are in recess.

7                               (End of day.)

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1 I HEREBY CERTIFY THAT THE FOREGOING IS A  
2 CORRECT TRANSCRIPT FROM THE RECORD OF  
3 PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.  
4 I FURTHER CERTIFY THAT THE TRANSCRIPT FEES  
5 FORMAT COMPLY WITH THOSE PRESCRIBED BY THE  
6 COURT AND THE JUDICIAL CONFERENCE OF THE  
7 UNITED STATES.

8  
9 S/Shawn McRoberts

06/04/2009

10 \_\_\_\_\_DATE\_\_\_\_\_  
11 SHAWN McROBERTS, RMR, CRR  
12 FEDERAL OFFICIAL COURT REPORTER  
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